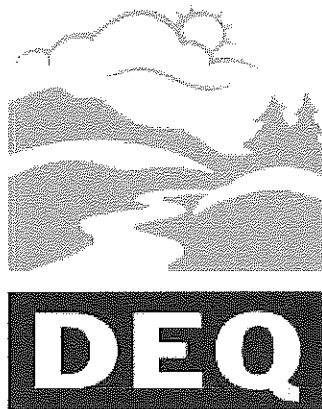


**OREGON  
ENVIRONMENTAL QUALITY  
COMMISSION MEETING  
MATERIALS 06/01/1989**



**State of Oregon  
Department of  
Environmental  
Quality**

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for any discrepancies in the page numbers**

Nikkila

Hanson

936-7197

OREGON ENVIRONMENTAL QUALITY COMMISSION

WORK SESSION

June 1, 1989

Department of Environmental Quality  
Ninth Floor Conference Room (9A)  
811 S.W. Sixth Avenue  
Portland, Oregon

**NOTE:** The purpose of the work session is to provide an opportunity for informal discussion of the following items. The Commission will not be making decisions at the work session.

- 2:30 p.m. 1. Governor's Watershed Enhancement Board Video Tape
- 3:00 p.m. 2. Asbestos Abatement Program - Status Report and Discussion of Residential Abatement Program Issue
- 3:45 p.m. 3. Woodstove Emission Offsets - Discussion on Feasibility and Criteria for External Woodstove Offsets for New and Expanding Industry
- 4:30 p.m. 4. Discussion Item: Bacona Road Landfill Site Well Abandonment

TENTATIVE AGENDA

June 2, 1989

Portland General Electric  
14655 S. W. Old Scholls Ferry Road  
Beaverton, Oregon

Consent Items - 8:30 a.m.

These routine items are usually acted on without public discussion. If any item is of special interest to the Commission or sufficient need for public comment is indicated, the Chairman may hold any item over for discussion.

- A. Minutes of the April 14, 1989, EQC meeting
- B. Monthly Activity Report for March, 1989

- C. Civil Penalties Settlements
- D. Tax Credits for Approval
- E. Commission member reports:
  - Pacific Northwest Hazardous Waste Advisory Council (Hutchison)
  - Governor's Watershed Enhancement Board (Sage)
  - Strategic Planning (Wessinger)

### Public Forum

This is an opportunity for citizens to speak to the Commission on environmental issues and concerns not a part of this scheduled meeting. The Commission may discontinue this forum after a reasonable time if an exceptionally large number of speakers wish to appear.

### Action Items

Public hearings have already been held on the rules proposed for adoption. Testimony will not be taken on items. However, the Commission may choose to question interested parties present at the meeting.

Request for adoption of:

- F. Field Burning - Permanent Rules to Replace Temporary Rules Adopted During the Last Burning Season
- G. Gasoline Volatility - Proposed Rule to Limit Gasoline Volatility During the 1989 Summer Ozone Season
- H. Klamath Falls Area - New Industrial Rules for PM<sub>10</sub>
- I. Hazardous Waste Rules - General Resource Conservation and Recovery Act (RCRA) Program Rule Revisions Including Adoption of New Federal Rules
- J. Construction Grant Rules - Modification to Implement Transition to Revolving Loan Fund
- K. Increased Wastewater Discharges - Rule Modification
- L. Total Maximum Daily Loads (TMDL's) for the Yamhill River

Other Items

- M. Asbestos Abatement Program - Proposed Adoption of Temporary Rule Suspending Existing Rules on Residential Abatement
- N. Chem-Securities Systems, Inc. (CSSI) Permit - Approval of Modifications to the Permit for the Hazardous Waste Disposal Facility at Arlington
- O. Informational Report: State/EPA Agreement (SEA) Final Review

Because of the uncertain length of time needed, the Commission may deal with any item at any time in the meeting except those set for a specific time. Anyone wishing to be heard on any item not having set time should arrive at 8:30 a.m. to avoid missing any item of interest.

The next Work Session and Commission meeting will be Thursday and Friday, July 20 and 21, 1989.

Copies of the staff reports on the agenda items are available by contacting the Director's Office of the Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204, telephone 229-5301, or toll-free 1-800-452-4011. Please specify the agenda item letter when requesting.

Approved ✓  
Approved with Corrections \_\_\_\_\_  
Corrections Made \_\_\_\_\_

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE EOC

ENVIRONMENTAL QUALITY COMMISSION

Minutes of the One Hundred Ninety-Fifth Meeting,  
April 14, 1989

=====  
Thursday, April 13, 1989

Instead of a work session, the Environmental Quality Commission toured the Gilliam County Landfill and the Chem-Security hazardous waste disposal facility. The Commission appreciates the efforts of Rick Daniels and Richard Zweig in arranging and providing the tours.

FORMAL MEETING

April 14, 1989

Fourth Floor Conference Room, Executive Building  
811 S. W. Sixth Avenue  
Portland, Oregon

Commission Members Present:

William Hutchison, Chairman  
Emery Castle, Vice Chairman  
Wallace Brill  
Genevieve Pisarski Sage  
William Wessigner

Department of Environmental Quality Staff Present:

Fred Hansen, Director  
Michael Huston, Assistant Attorney General  
Program Staff Members

NOTE: Staff reports presented at this meeting, which contain the Department's recommendations, are on file in the Office of the Director, Department of Environmental Quality, 811 S. W. Sixth Avenue, Portland, Oregon 97204. Written material submitted at this meeting is made a part of this record and is on file at the above address.

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Prior to the start of the meeting, John Loewy briefed the Commission on the status of significant legislative activity on environmental issues.

The Commission then discussed Agenda Item T, the proposed schedule of future EQC meetings.

The purpose of this agenda item was to provide the Commission, staff and public with a tentative schedule of meetings for six to nine months beyond the July 21, 1989, meeting.

**Recommendation:** The Department recommended the Commission approve the meeting schedule as indicated below:

<u>Work Session</u>	<u>EQC Meeting</u>
June 1	June 2
July 20	July 21
September 7	September 8
October 19	October 20
November 30	December 1
<u>1990</u>	
January 11	January 12
February 22	February 23

**Action:** By consensus, the Commission accepted the proposed schedule. The Commission also decided to add a retreat in connection with the July work session to discuss newly enacted legislation, and a retreat in connection with the September work session to address Strategic Planning.

The regular meeting then convened.

#### CONSENT ITEMS

Agenda Item A: Minutes of the March 3 and 4, 1989, EQC meeting.

Chairman Hutchison asked that the sentence on page 11, paragraph 5, fifth line (the last sentence in that paragraph) be struck. That paragraph should read as follows:

Chairman Hutchison expressed support for entry of the unilateral order, at the same time voicing frustration that so much of the Department's time had been wasted. He also said he would enter it with the additional message to DEQ staff that they are not to negotiate any further with METRO.

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**Action:** It was **MOVED** by Commissioner Castle, seconded by Commissioner Brill and unanimously passed to approve the minutes as corrected of the March 3, 1989, work session and March 4, 1989, regular meeting.

**Agenda Item B: Monthly Activity Reports for January and February 1989.**

**Action:** It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Castle and unanimously passed to approve the Activity Report for January and February 1989.

**Agenda Item C: Civil Penalties Settlements.**

There were no civil penalties settlements.

**Agenda Item D: Tax Credits for Approval.**

The Department presented a recommendation that tax credit certificates be issued for seven applications. The Department also recommended denial of tax credits to Forrest Paint, Inc., T-2191, and Norman Coon, T-2716 and T-2722.

Roberta Young, Management Services Division, summarized the Department's position that the groundwater monitoring wells were installed by Forrest Paint to assess the extent of groundwater contamination in regard to cleanup of unauthorized past practices of hazardous substance disposal. ORS 468.155(2)(f) does not allow certification of property installed, constructed or used for cleanup of emergency spills or unauthorized releases. Therefore, the Department concluded the monitoring wells were not eligible for certification.

Michael Huston, Assistant Attorney General, advised the Commission that the law was changed in 1987 to specifically preclude certification of "... property installed, constructed or used for cleanup of emergency spills or unauthorized releases, as defined by the Commission." No provision was made to grandfather any applications where work was initiated that may have been eligible under the prior law. He further noted that the Commission, by rule, had determined that facilities eligible for certification "... will be used to detect, deter, or prevent spills or unauthorized releases" (emphasis added).

Scott Forrest, President of Forrest Paint Company, stated that wells were installed in 1986 at the request of the Department. He also stated the Department's regional office advised him that the purpose of the monitoring wells was to determine if there had been a release of pollutants to the groundwater; if pollutants



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were found, an unauthorized release would be deemed to exist. He further noted that region staff advised the wells would be eligible for tax credit. Pollutants were found, therefore, he had an unauthorized release. Some of the wells were 2 inch wells and could not be used in connection with any cleanup--their only purpose was monitoring. He argued that monitoring wells to detect unauthorized releases were eligible for certification.

Mr. Forrest also told the Commission that his company had been cooperative and had voluntarily taken pollution control actions beyond those required.

Commissioner Sage asked Mr. Huston for further information about eligibility. Mr. Huston replied that an applicant is not eligible for a tax credit until final certification. He said there is no legal guarantee of receiving a tax credit, even if preliminary certification was granted. Mr. Huston said he believed the issue before the Commission was a factual determination of whether the wells were installed in connection with cleanup of an unauthorized release or were installed for use to detect, deter or prevent spills or unauthorized releases.

Chairman Hutchison expressed concern about Mr. Forrest's indication of staff representations of eligibility that differ from current recommendations. Director Hansen said the Department would further investigate to determine whether there was a difference of opinion or judgment between the Department's Willamette Valley Region Office in Salem and the DEQ headquarters office staff on the question and conditions of eligibility. This information would be provided at the June 2, 1989, EQC meeting. The Department will also secure additional information from Mr. Forrest about the cost breakdown between 2 and 4 inch wells installed.

The Commission decided to defer action on this application until the next meeting.

Ms. Young then explained the Department's position on two applications filed by Mr. Norman Coon. Mr. Coon failed to file for preliminary certification prior to construction of straw storage sheds, as required by OAR 340-16-015. The sheds were ineligible for certification unless the Commission chose to waive the rule based on a finding that special circumstances render the filing unreasonable, and the shed would otherwise qualify for certification. Mr. Coon had requested waiver of the preliminary certification requirement. The Department did not find a basis for recommending a waiver and recommended denial of both applications.

Norman Coon told the Commission that he had made a significant effort to limit smoke from field burning by marketing rather than burning the straw. To do this, he needed to provide covered storage. His accountant advised him the storage sheds would be eligible for tax credit, but did not advise him of the preliminary certification requirements. He initially built one shed. Then, after the I-5 accident, Mr. Coon was contacted by a buyer for more straw and completed a second shed within 17 days. He learned of the preliminary certification requirements and filed an application before building a third shed.

Commissioner Castle said he understood the Department's recommendation but felt that special circumstances existed that made filing the preliminary certification application unreasonable.

Director Hansen told the Commission that they had two options: waive the filing requirement pursuant to the existing rule or modify the rule to cover the situation.

Commissioner Wessinger said he did not believe that an emergency situation existed. Commissioner Sage said she personally agreed with Commissioner Castle about Mr. Coon's business.

Commissioner Castle questioned the purpose of the preliminary certification and stated his belief that no purpose or environmental issue was being served by the preliminary certification.

In response to a question, Mr. Coon noted that one shed was constructed in July before the I-5 accident, and the second was constructed in August after the accident.

**Action:** It was **MOVED** by Commissioner Castle that the requirement for preliminary certification of Mr. Coon's two applications be waived based on the following findings:

- Last year's burning season was most unusual in regard to air quality.
- The grass seed industry is aware of the increasing adverse public reaction to field burning and must constantly re-evaluate their circumstances.
- The markets for straw are sufficiently dynamic to require prompt decisions.
- The circumstances surrounding the I-5 accident all constituted special circumstances that warranted waiving the requirements for preliminary certification.

- The applications should be approved for tax credit.

The motion was seconded by Commissioner Sage. Commissioners Castle and Sage voted for the motion, Commissioners Wessinger and Brill and Chairman Hutchison voted against the motion. Therefore, the effect of the vote was to deny certification of Mr. Coon's two applications.

**Action:** It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Castle and unanimously passed to approve the remaining applications for tax credit as recommended by the Department and to defer a decision on Forrest Paints until the June 2, 1989, EQC meeting.

**Agenda Item E: Commission Member Reports.**

**Pacific Northwest Hazardous Waste Advisory Council:**

Chairman Hutchison referred to the Council's annual report received by the Commission, saying he believed the council was fulfilling its mission for regional planning. He noted that a regional vision for hazardous waste disposal was being developed. The Council will meet in Anchorage, Alaska, on July 9, 1989. He indicated he would have more information at the June 2, 1989, meeting.

**Governor's Watershed Enhancement Board:** Commissioner Sage told the Commission that the Governor's Watershed Enhancement Board (GWEB) met for a retreat on March 30 and 31, 1989. GWEB received a directive from the Executive Department that the board should be more aggressive and proactive. As a result of the retreat, a conference has been scheduled for next January. Also, Commissioner Sage told the Commission that Bob Elder had been elected as the Board's new chairman, and she had been elected vice chair.

Commissioner Sage had planned to show a video tape on GWEB's activities but time did not allow for the showing. Viewing of the tape has been scheduled for the June 1, 1989, work session.

**Strategic Planning:** Commissioner Wessinger said that the Strategic Planning Group had completed their last of five meetings. He said the strategic planning product was now in the hands of Department staff. Director Hansen indicated a draft of the planning process will be distributed for comment. The Department and the Commission will then hold a retreat to finalize the plan.

**PUBLIC FORUM**

No one wished to appear or testify during the public forum.

The Commission then moved to Agenda Item Q, accommodating those who had traveled from Brookings.

**Agenda Item Q: City of Brookings, Request for Time Extension to Comply with Stipulated consent Order.**

The City of Brookings had requested a modification of their compliance schedule in Stipulated Order, WQ-SWR-88-35. The City of Brookings operates a sewage collection and treatment system under a National Pollutant Discharge Elimination System (NPDES). Brookings was issued a Stipulated Consent Order to upgrade their treatment facilities. The City may not be able to meet the schedule as described in the Order; if not, the City would be subject to enforcement action from the Department.

Harbor Sanitary District operates a sewage collection system and discharges wastes into the Brookings collection treatment system. The City and District are in dispute over user charges. Brookings believes they cannot proceed on facility upgrades without some assurance that user charge revenues will be sufficient to provide for operation and maintenance of the treatment works as well as debt service. The District has expressed interest in construction of a second sewage treatment facility which Brookings opposes.

The initial staff report provided to the Commission indicated that final issues of the Department recommendation would be provided later. An addendum to the staff report dated April 13, 1989, was submitted. This addendum recommended the Commission adopt an addendum to the Brookings Order with provisions which require that outfall construction be started by August 1, 1989, and completed by December 1, 1989. The proposed addendum further authorizes the Director to amend the addendum to provide for start of construction by April 15, 1990, and completion by September 1, 1990, if construction is not feasible between August 1 and December 1, 1989. Also included was a separate proposed order to be entered against Harbor Sanitary District.

Richard Glick, Attorney for the City, and Roy Rainey, Brookings City Manager, told the Commission that the City appreciated the staff's work on this issue and also appreciated Director Hansen's visit. They indicated that this visit and DEQ's involvement had helped the project along. Mr. Glick asked the Commission to amend the Department's recommendation on the addendum to the City's order to establish April 15, 1990, as the date for start of construction (rather than August 1, 1989), and September 15, 1990,

for completion (rather than December 1, 1989). The reasons for this amendment are due to the timing of blasting so that marine life can be protected, the City would be paying more for a contractor in the summer, and the existing litigation between the City and District should be resolved prior to getting a bid. He expressed the view that the August 1, 1989, date was not feasible.

Additionally, Mr. Glick recommended the proposed order for Harbor Sanitary District be adopted with a modification. He suggested that page 4, Civil Penalties, lines 9 and 10, read as follows:

... No. WQ-SWR-88-35, be imposed upon either the City, the District, or both, in which case fines will be levied in proportion to the number of actual connections to each system.

Commissioner Wessinger asked for staff comments on the changes suggested by Mr. Glick. Director Hansen indicated support for the amendment to the Harbor Sanitary District order, but recommended the Brookings Addendum not be modified as requested.

Chairman Hutchison asked about the legal authority to enter the order against Harbor Sanitary District. Mr. Huston indicated the Commission probably had the authority, however, he had not researched the matter to reach a certain conclusion. He stated the Commission does have clear authority with respect to rates. Finally, he noted the District can request a hearing if it disagrees with the order.

Chairman Hutchison asked if the case between the City and the Sanitary District could be delayed by the order. Mr. Glick replied the District was not opposing the order. Director Hansen indicated that a second sewage treatment plant may make sense in the long run, but any such plant must be a part of a regional plan. Further, any such plant cannot be allowed to impair Brookings' ability to repay debt on the existing facilities.

Commissioner Sage asked for clarification of the term "proper control of wastes." Mr. Glick replied this referred to new connections and means the ability to recover costs and control the number of connections to control flow and loading to the treatment plant.

**Amended Recommendation:** The Department recommended the Commission:

1. Adopt the proposed addendum to the City of Brookings Stipulation and Final Order No. WQ-SWR-88-35 to provide for start of outfall construction by August 1, 1989, and completion by December 1, 1989, with authority for the

Director to amend the addendum to substitute April 15, 1990, and September 1, 1990, if the initial dates are determined to be not feasible.

2. Adopt the proposed order against Harbor Sanitary District with amendment of the language as recommended by Mr. Glick.

**Action:** It was **MOVED** by Commissioner Castle, seconded by Commissioner Wessinger and unanimously passed that the amended recommendation be approved.

The Commission gave authorization to the Director to sign the order.

**Agenda Item F: Field Burning, Permanent Rules to Replace Temporary Rules Adopted During the Last Burning Season.**

The purpose of this agenda item was to request authorization to conduct a public hearing on proposed open field burning rules, Oregon Administrative Rules (OAR) 340-26-001 through 340-26-055. These proposed new rules, in conjunction with the State Fire Marshal's new field burning rules, provide improvement to public safety near open field burning, propane flaming and stack burning operations, and improvement to the general air quality from increased propaning activity in the Willamette Valley.

The Department of Environmental Quality (DEQ) and the State Fire Marshal developed new fire safety rules for open field burning and propane flaming at the request of Governor Goldschmidt following the multi-car accident on Interstate 5, south of Albany, on August 3, 1988. These rules incorporated the fire safety buffer zones as defined by the State Fire Marshal and required prior Department authorization for conducting open burning within these zones. The Department's emergency rules were in effect for 180 days until March 12, 1989. The proposal before the Commission was to adopt the earlier rules as permanent rules, with added controls on propane flaming and stack burning.

**Recommendation:** The Department recommended the Commission review proposed rule revisions and authorize public hearings to take place. This would provide the Department with public comment on the proposed rule revisions.

**Action:** It was **MOVED** by Commissioner Castle, seconded by Commissioner Wessinger and unanimously passed that the Department's recommendation be approved.

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**Agenda Item G: Leaking Underground storage Tanks, Matrix for Evaluating Cleanup Levels in Soils.**

The purpose of this agenda item was to augment previously adopted petroleum cleanup rules for facilitating the cleanup of minor releases of motor fuel and heating oil in soils while maintaining a high degree of protection of public health, safety, welfare and the environment.

In the development of the initial petroleum cleanup rules (OAR 340-122-201 to 260, adopted on November 4, 1988), the Remedial Action Advisory Committee recognized that not only was there a need for a simpler process for minor releases, but also that time was of the essence in the development of these rules.

The current cleanup rules for leaking petroleum Underground Storage Tank (UST) systems (OAR 340-122-201 to 340-122-260) provide the framework for addressing the mediation of petroleum releases. The proposed rules establish numeric soil cleanup standards for simple soil cleanups which are based on site-specific parameters. As such, they allow the regulated community to move forward quickly and efficiently with the cleanup of minor petroleum releases.

Michael Anderson and Lon Revall, Environmental Cleanup Division, provided the Commission with recommended additional language to the rules. Based upon discussions between the Underground Storage Tank (UST) Compliance Section in the Hazardous and Solid Waste Division and the UST Cleanup Section in the Environmental Cleanup Division, it was determined that it was necessary and appropriate to establish consistent sampling and analytical protocols for the determination of the cleanliness of a site. In order to ensure that sites that are determined to be sufficiently clean under the UST Decommissioning Rules meet the same cleanup standards as those remediated under the UST Cleanup Rules, the suggested modification to existing UST Decommissioning rules was proposed.

Chairman Hutchison noted that many letters had been received by the Commission on this issue. He requested these letters be made part of the hearing record on the matter.

**Recommendation:** The Department recommended the Commission adopt Alternative No. 1: adopt a new set of rules which establish numeric soil cleanup levels applicable to situations involving minor releases of motor fuel and heating oil.

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**Action:** It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Brill and unanimously passed that the Department's recommendation, as amended with the additional rule language, be approved.

**Agenda Item H: TMDLs (Total Maximum Daily Loads) for Bear Creek.**

The purpose of this agenda item was to authorize public hearings on proposed rules which will establish instream criteria for total phosphorus, ammonia nitrogen and biochemical oxygen demand in Bear Creek.

Water quality standards are violated in Bear Creek basin for pH, dissolved oxygen and ammonia. The criteria will provide the basis for developing and allocating the total maximum daily loads (TMDLs) for nutrients and biochemical oxygen demand in Bear Creek, a tributary of the Rogue River. The TMDLs are required to achieve dissolved oxygen, pH and ammonia standards. Achieving water quality standards is required to protect the recognized beneficial uses of fish and aquatic life, salmonid spawning and rearing, anadromous fish passage, fishing and aesthetic quality.

Dick Nichols, Administrator of the Water Quality Division, told the Commission that existing rules contain minimum design criteria for sewage treatment facilities which will result in controls more stringent than required to meet the TMDL.

Steven Hall, City of Ashland Department of Public Works, and Steve Krugel, Brown & Caldwell, told the Commission that the City of Ashland wants to be part of the improvement of water quality in Bear Creek. The City adopted a draft program plan and wished to cooperate in cleaning up Ashland and Bear Creek. They expressed concern on the five year time frame in the proposed rules which requires facility improvements to be on line by December 31, 1994. Their program plan suggests December 31, 1996, as a more realistic deadline because there are a number of issues yet to be resolved including stream flow measurements and the impact of impoundments. Chairman Hutchison expressed his view that the proposed dates should remain, but urged the City to make their points in the hearing.

Commissioner Sage asked about the phosphorous limit and background. Bob Baumgartner, Water Quality Division, said that background levels may be higher than the targeted levels necessary to control algae growth. Mr. Baumgartner also said the Department used a U. S. Geological Survey database developed by measuring forest areas above nonpoint sources to define background rather than simply measuring the concentration above Ashland.



**Recommendation:** The Department recommended the Commission adopt criteria described in Alternatives 3 and 5 of the staff report: phosphorus limits of 80 ug/l (micrograms per liter) and oxygen demand criteria addressing both the ammonia and carbon demand components of biochemical oxygen demand. Separate limits are defined for winter and summer conditions.

**Action:** It was **MOVED** by Commissioner Brill, seconded by Commissioner Wessinger and unanimously passed that the Department's recommendation be approved.

**Agenda Item I: Industrial PM<sub>10</sub> Rules for the Klamath Falls Urban Growth Area.**

The purpose of this agenda item was to assure that industrial emission increases in Klamath Falls do not interfere with control strategies designed to attain and maintain compliance with the new Federal PM<sub>10</sub> air quality standards.

The proposed rule would:

- Reduce the significant emission rate that triggers emission offset requirements from 15 tons to 5 tons per year.
- Apply retroactively to all new or modified sources within the Klamath Falls Urban Growth Boundary for which permits have not been issued prior to April 29, 1988.
- Delete the provision contained in the originally proposed rule requiring application of Lowest Achievable Emission Rate (LAER) at the 5 ton per year offset level; retain the LAER requirement at the existing 15 ton per year offset level.
- Designate the Klamath Falls Urban Growth Boundary as the PM<sub>10</sub> non-attainment area.

The Department estimated that sufficient offsets are available to accommodate several new or expanded industrial sources. Replacement of woodstoves in low income, sole-source homes is the most likely source of external offsets. Additionally, the boundary within which the control strategies apply must incorporate the area which currently exceeds, or in the future may exceed, air standards. It must also be a legally defined boundary for which population, housing and transportation growth forecasts are proposed. The Department believes that the Urban Growth Boundary best meets these criteria.

Because of the very high degree of emission reduction required to attain air quality standards in Klamath Falls, every reasonable measure must be taken to manage industrial emission growth. The Department believes the rule should be retroactive to insure that proposed industrial expansions do not interfere with attainment and maintenance of air quality standards. The rule also insures that efforts to gain public cooperation in reducing woodstove emissions are not undermined by public perception of inequities in allocating woodstove emission reduction gains to industry.

Nick Nikkila, Air Quality Administrator, noted in summary that this agenda item contained four basic issues: LAER 15 ton limit, offsets for 5 tons, urban growth boundary as the area boundary, and retroactivity. In response to questions, Mr. Nikkila stated that the offset ratio proposed is only 1-to-1. The removal of emissions from the residential area and addition of a like amount of emissions at an industrial source located outside the residential area will have a net beneficial impact on air quality. He also noted that the Department still needs to establish a standardized offset allowance for woodstoves that are removed.

Stan Meyers, Jeld-Wen, Klamath Falls, spoke to the Commission about how this rule would affect Jeld-Wen's renewal of their Air Contaminant Discharge Permit. He noted that their application to renew their permit and increase their permit limits to accommodate increased boiler capacity has been on hold for 14 months. He questioned the lack of hard data in the report and indicated that the cost for compliance was higher than estimated in the report. He also stated that no case had been made for the retroactivity requirement. Mr. Meyers indicated that Jeld-Wen had used their internal offsets. He said his company would support the external offset program in which Jeld-Wen supplied low-cost heating alternatives to Klamath County citizens if the Department could provide assurance that the program had been approved and would work. Finally, he recommended the Commission delay adoption until a complete package for the area was before them; but if adopted, the retroactive provision should be deleted.

In response to questions, Mr. Nikkila noted that industry is a relatively small but important contributor to the total problem. Reduction from all sectors is needed to meet the standard. At least 85 percent reduction is needed from wood heating assuming that industry does not increase emissions above current levels. If industry increased emissions to presently permitted levels, a 91 percent reduction in wood heating emissions would be necessary.

Harry Fredericks, Klamath County Commissioner, told the Commission that too many restrictions were being applied to woodstoves, that he agreed with Mr. Meyers regarding retroactivity, that the money the county had received for

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woodstoves was helpful but they needed more time, and that most of industry growth was occurring outside of the urban growth boundary.

Perry Rickard, Administrator, Klamath County Department of Health Services, questioned the need for the rule and the retroactivity portion of the rule. He noted that industry is not the problem, and the largest industry is outside the boundary with the wind blowing toward the Urban Growth Boundary. He noted that 30 percent compliance has been obtained through voluntary compliance, and they expect 50 percent compliance by next year. He noted the voluntary compliance program is supported by a federal grant.

Commissioner Sage said the Clean Air Act does not provide a large discretionary margin: it establishes compliance deadlines and provides that the plan must be approved by the U. S. Environmental Protection Agency (EPA). Chairman Hutchison asked if there would be a problem in delaying action until June. Mr. Nikkila responded the Department saw no problem provided Mr. Meyers didn't object to the further delay in action on their permit.

In response to a question about the retroactivity provision, Mr. Huston responded that the rules apply to all upon enactment unless a specific provision is included to exempt certain existing facilities or applications. He continued that an applicability section probably should be added for clarity.

Director Hansen summarized the issue by noting that Jeld-Wen has used all available internal offsets and therefore must either obtain external offsets to accommodate their boiler expansion, or must install the more expensive LAER technology to comply. Further, Mr. Meyers is not sure external offsets are available because he cannot determine how the woodstove offset process would work.

**Recommendation:** The Department recommended the Commission adopt Alternative 3: retain the current 15 ton per year requirement for LAER, but for new or modified sources greater than 5 but less than 15 tons per year, require either emission offsets or LAER control technology. The rule would apply retroactively to sources for which permits have not been issued prior to April 29, 1988.

**Action:** Commissioner Brill **MOVED** that the Jeld-Wen application be considered under the old rule. The motion died for lack of a second.

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It was **MOVED** by Commissioner Castle, seconded by Commissioner Brill and unanimously passed that this item be deferred to the June 2 meeting; that the Department return then with further guidance on how the external offset process involving removal of woodstoves would work; and that action on the Jeld-Wen permit be deferred until after June 2, 1989.

The Chairman recessed the meeting for lunch. Following lunch, Agenda Item M was taken out of agenda order.

**Agenda Item M: City of Corvallis, Approval of Plans, Specifications and Implementation Schedule for Sewer Project to Serve the Philomath Boulevard Phase II Health Hazard Annexation Area.**

The purpose of this agenda item was to obtain the EQC's approval of a preliminary plan, specifications and schedule for sanitary sewers to serve a health hazard annexation area know as Philomath Boulevard area (Phase II) and to approve a request to revise a prior approved schedule for Phase I.

EQC approval of the City of Corvallis' plan, specifications and schedule for Phase II would allow the mandatory health hazard annexation process to continue in accordance with Oregon Revised Statute (ORS) 222.840 and enable the City to provide sanitary sewers to alleviate a health hazard caused by inadequate on-site sewerage disposal systems. Approval of the proposed revised schedule for providing sewers to Phase I would enable the City of Corvallis to pursue financing alternatives for both phases at the same time reducing the cost to property owners served by the plan.

Neil Mann and Jim Clark, representing the City of Corvallis, told the Commission that the plan, specifications and schedule allowed the City of Corvallis economic alternatives and allowed the City to proceed with Phase I and Phase II of the plan. They indicated that the Benton County Health Department had agreed to the plan. Commissioner Sage asked about cost savings. Messrs. Mann and Clark replied that the city will pursue a construction grant which can reduce property assessments by 10 percent. A grant was not available when they initially proceeded with Phase I. However, a grant can now be obtained for the combined project.

**Recommendation:** The Department recommended the Commission approve the preliminary plan, specifications and schedule submitted by the City for the area. The Department also recommended the Commission authorize execution of the Stipulation and Final Order by the Director to acknowledge that the previously approved schedule for Phase I

construction will not be met and to assure the construction schedule for the total project is met.

**Action:** It was **MOVED** by Commissioner Castle, seconded by Commissioner Wessinger and unanimously approved that the Department's recommendation be approved.

**Agenda Item J: Out-of-State Hazardous Waste, Permanent Rule.**

The purpose of this agenda item was to make permanent a 180-day temporary rule adopted by the Commission on November 4, 1988, with no changes in the rule. The permanent rule would prohibit disposal of out-of-state hazardous waste at Oregon solid waste sites.

Some wastes are considered hazardous in other states but non-hazardous in Oregon, providing an economic incentive to ship those wastes to Oregon solid waste disposal sites to avoid the higher costs of disposal at a hazardous waste disposal site. This rule would prohibit wastes which are considered hazardous under the law in the state of origin from being managed at solid waste disposal sites when transported into Oregon. The rule does not prohibit out-of-state wastes from being disposed of in Oregon, but requires that the wastes be managed as a hazardous waste if transported into this state.

Steve Greenwood, Hazardous and Solid Waste, told the Commission that the proposed rule would require the State of Oregon to handle an out-of-state hazardous waste as a hazardous waste in Oregon.

**Recommendation:** The Department recommended the Commission adopt the temporary rule as a permanent rule with no revisions.

**Action:** It was **MOVED** by Commissioner Wessinger, seconded by Commissioner Castle and unanimously approved that the Department's recommendation be approved.

**Agenda Item K: Waste Tire Economic Feasibility Rules.**

This purpose of this agenda item was to request adoption of revisions to waste tire administrative rules. These revisions include the methodology to determine when it is economically feasible to recycle waste tires, procedures to establish block passes in the tire carrier program and housekeeping changes in waste tire storage site and carrier permitting rules.

**Recommendation:** The Department recommended the Commission adopt the proposed rule with Alternatives No. 1-A (Economic Feasibility Rule) and 2-A (Block Pass Procedure).

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**Action:** It was **MOVED** by Commissioner Brill, seconded by Commissioner Castle and unanimously passed that the Department's recommendation be approved.

**Agenda Item L: Air Quality Plan Approval, Delegation of Authority to the Department.**

The purpose of this agenda item was to amend Oregon Administrative Rule (OAR) 340-20-030(4)(a) to be consistent with Oregon Revised Statute 468.325(6). The proposed rule amendment would delegate authority of the EQC to the Director of DEQ for the issuance of an order prohibiting the construction, installation or establishment of an air contaminant source.

This issue was identified at the EQC retreat last year. The rule amendment provides an appeal process for denials to the EQC and approvals to the courts.

**Recommendation:** The Department recommended the Commission implement Alternative No. 1: the Commission could fully delegate the air quality construction plan program to the Director by delegating the authority for issuing orders prohibiting construction.

**Action:** It was **MOVED** by Commissioner Castle, seconded by Commissioner Wessigner and unanimously passed that the Department's recommendation be approved.

**Agenda Item N:** This agenda item was deleted and not considered at this meeting.

**Agenda Item O: Unified Sewerage Agency (USA/Washington County, Program to Meet TMDL (Total Maximum Daily Loads)).**

The purpose of this agenda item was to request approval of USA's program plan and time schedule developed to meet TMDLs for nutrients discharged to the Tualatin River. The program plan was to present preliminary alternatives for achieving waste load allocations (WLAs) by June 30, 1993. In addition, the program plan was to contain provisions and a time schedule for developing and implementing an agreement with Lake Oswego Corporation for algae control. The purpose of having an approved program plan is to provide USA with direction and guidance as to acceptable courses of action in carrying out subsequent steps for achieving TMDLs.

Leonard G. Stark, a Lake Oswego resident, spoke about issues listed in his letter to the Commission. Mr. Stark's written testimony is made a permanent part of the meeting record.

Jack Churchill, representing Northwest Environmental Defense Center, told the Commission he was concerned about Item 3 of USA's program plan, reuse of water. Mr. Churchill said that in the next planning phase, water recycling and a tertiary treatment plant would allow for irrigation. He asked USA to look at greater use of effluent for crop irrigation and that DEQ look at resolving the technical and institutional obstacles to greater irrigation use.

Gary Krahmer, Lorrie Skurdahl and Gordon Culp appeared representing USA. Mr. Krahmer told the Commission that USA has 1,406 days left to comply with Department rules. He noted their progress in establishing a management authority for stormwater. Their facility plan has been completed and now must go before the Boundary Commission. Finally, he noted that legislative amendments necessary to establish the management authority for stormwater passed the House.

Ms. Skurdahl told the Commission that four of six USA plants can meet TMDL requirements by the Commission deadlines. The two that USA cannot meet, Rock Creek and Durham, involve scheduling and technology conflicts. Ms. Skurdahl said that their plan involves continuing investigation of options which, when accomplished, could prevent the schedule deadline from being met. If current technology is applied at the Rock Creek plant, USA could meet the June 1993 deadline but would risk not meeting waste allocations. She noted that the scheduling problems are worse for Durham, which is behind Rock Creek. She urged the Commission to take the following actions:

1. Either accept the USA schedule for Rock Creek (modify EQC deadline) or direct USA to implement tertiary treatment and accept the risk that the TMDL may not be met.
2. Reconsider the Waste Load Allocation transfer issue when facility plans are reviewed.
3. Authorize the Department to implement the 150 cubic feet per second (cfs) flow regime.
4. Require the Department to adopt review criteria and guidelines for facility planning.

Mr. Culp asked the Commission to reconsider the waste load allocations.

Mr. Krahmer replied to Mr. Churchill's comments about irrigation and wetlands. He noted that they are interested in investigating uplands/wetlands treatment and are awaiting a response from the

Department on the expectations of such a system. He also agreed with the need to address reuse criteria.

John Harrison, Water Quality Division, summarized the Department's evaluation noting that USA should move forward on the approvable items and make decisions on the remainder after pilot testing is completed. He noted that conventional tertiary treatment is a viable technology, but not necessarily the best alternative. He noted that moving of waste load allocation from Durham to Rock Creek is premature at this time. The Department will continue to work on the 150 cfs flow regime and criteria for facility planning and design.

Chairman Hutchison asked if the Department had established a check-back point with USA. Director Hansen replied that the program date was in February 1990. Director Hansen suggested the Commission could be apprised of USA's progress between dates at an upcoming work session or breakfast.

Commissioner Castle asked if the expertise and motivation was available to explore the non-structural opportunities. Mr. Culp responded that work has been done elsewhere, but that non-structural approaches remain between an art and a science at this time.

**Recommendation:** The Department recommended the program plan be accepted but that those items that were unacceptable be rejected. Future investigation by USA may warrant reconsideration of certain items by the EQC. In addition, the Department recommends authorization and direction to both DEQ and USA for items that require modification, submittal or further study.

The following were recommended for approval:

1. USA's approach.
2. USA's alternatives for facility planning.
3. Time to achieve compliance with TMDLs.
4. Development of agreement with Lake Oswego Corporation.

The following items requested by USA were recommended for rejection:

1. Time extension for TMDL compliance at the Rock Creek facility.
2. Transfer of phosphorus WLAs from the Durham facility and Department reserves.
3. Cost considerations.



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The following were recommended for reconsideration after further investigation and documentation in USA's program reports to the Department:

1. Time extension for compliance at the Durham facility.
2. Modification to TMDL flow regime.

The following were recommended for authorization/direction:

1. USA submittals: By December 31, 1990--an agreement with Lake Oswego Corporation for controlling algae in Lake Oswego; by February 28, 1990--a program report on facility planning efforts and a basis for reconsideration of any TMDL issue for the EQC; by June 30, 1990--completed facility plans for Rock Creek and Durham facilities.

**Action:** It was **MOVED** by Commissioner Castle, seconded by Commissioner Sage and unanimously approved that the Department's recommendation be approved.

**Agenda Item P:** This agenda item was deleted and not considered at this meeting.

**Agenda Item R: Informational Report, Recycling Program Performance Standards.**

The purpose of this agenda item was to discuss the need for performance standards for recycling programs required under the Oregon Recycling Opportunity Act. Performance standards would require recycling collectors to meet a goal for recycling participation, quantity of material recycled or some other pre-set measure of recycling performance.

Enforceable recycling performance standards should result in conservation of energy and natural resources and extension of the useful life of existing solid waste disposal sites by requiring Recycling Opportunity Act programs to significantly increase recovery of recyclable material and public participation in recycling.

The Department requested guidance from the Commission about the development of performance standards for recycling under the Recycling Opportunity Act. Guidance was requested on whether standards should be developed, timing issues related to the development of standards and whether an increased legislative mandate should be sought for standards development. If the decision was made to proceed with developing standards, further discussion was requested about issues involved in standards development.

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Commissioner Castle suggested that the EQC have a retreat discussion after the legislative session is completed to brainstorm the alternatives and develop a policy for the state.

**Recommendation:** The Department recommended the Commission approve Alternative 2: that the Department work with the Legislature to include standards or a mandate for the Commission to adopt standards in recycling legislation and to delay the development of recycling performance standards until after the conclusion of the legislative session.

**Action:** By consensus, the Commission gave the Department direction to begin development of performance and program standards, and to plan on further discussions after the legislative session.

**Agenda Item S: Informational Report, Update on Yard Debris.**

The purpose of this agenda was to provide the Commission with an update on the level of local government compliance with yard debris recycling rules adopted September 9, 1988.

**Action:** The Commission accepted the report.

**OTHER BUSINESS**

Commissioner Sage asked for discussion of the Sierra Club request to the Commission that Medco's request for an increase in discharged pollutants not be granted.

Nick Nikkila, Air Quality Administrator, provided the Commission with a background of Medco's request for a permit modification. In summary, Mr. Nikkila explained that Medco had originally planned on installing three new larger boilers to replace three old hog fuel boilers. With these new boilers, Medco would be releasing increased amounts of pollutants into the air but not increased particulate. After a public hearing was held, Medco decided to downsize their requirements and install only two boilers, thus reducing emissions but still maintaining the same power. Even with the increased emission rates, Medco would still be emitting lower air discharges than when the retroactive rules come into effect.

There was no further business and the meeting was adjourned at 3:34 p.m.

## GOVERNOR'S WATERSHED ENHANCEMENT BOARD

### STATEMENT OF PURPOSE

The purpose of the Governor's Watershed Enhancement Board is to promote and implement programs to restore and maintain and enhance watersheds in the state of Oregon in order to protect the economic and social well-being of the state and its citizens.

### LEGISLATIVE OBJECTIVES

- A. Enhance Oregon's waters through the management of riparian and associated upland areas of watersheds in order to improve water quality and quantity for all beneficial purposes as set forth in ORS 536.310.
- B. Restore, maintain and enhance the biological, chemical and physical integrity of the riparian zones and associated uplands of the state's rivers, lakes and estuaries systems.
- C. Restore and enhance the ground water storage potential associated with healthy riparian area ecosystems.
- D. Improve the filtering capability of riparian areas to reduce nonpoint source runoff and improve water quality.

## VISION STATEMENTS, STEPS AND TASKS

- . Administration
- . Education
- . Sociological Forces
- . Government Forces
- . Technical

## CONSOLIDATION

### VISION STATEMENT - ADMINISTRATION

Through an aggressive, proactive program, the Governor's Water Enhancement Board (GWEB) will be seen as a leader in promoting watershed enhancement in Oregon and the west.

### STEPS:

- Include representatives of additional land managing agencies on committees
- Encourage federal and state agency budgets that are complementary and supplementary to GWEB program
- Encourage 5 voting agencies to ensure predictable tenure for Board members
- Use information gathered from past activities to adjust future programs and projects
  - monitoring program
  - administrative reviews
  - project maintenance

### TASKS:

1. By (date) develop a "master" training program in conjunction with Oregon State University which will provide skills in monitoring project effectiveness at a cost of \$\_\_\_\_\_.
2. By (date) develop a policy statement that authorizes funding of maintenance of GWEB sponsored projects.
- 3.

## CONSOLIDATION

### VISION STATEMENT - EDUCATION

Promote GWEB's mission to policy makers, land owners/managers, concerned citizen groups and the general public through:

- Education
- Advice
- Support/Encouragement
- Information Base

### STEPS:

- Education - Develop informational and training material and programs to stimulate public awareness and involvement in watershed enhancement.
- Advice - Actively encourage local, state and federal entities to adopt Oregon's watershed enhancement concept.
- Support/Encourage - Seek opportunities to provide motivation for watershed enhancement activities at the local, state or federal levels.
- Information Base - Identify and develop information about the effects of sound watershed enhancement practices.

### TASKS:

1. Develop plans and implement a GWEB sponsored conference on watershed enhancement on January 11 and 12, 1990.
- 2.

## CONSOLIDATION

### VISION STATEMENT - SOCIOLOGICAL FORCES

GWEB will build a proactive program that is flexible and responds to the strengths of a diverse populace with shifting interests, needs and priorities.

#### STEPS:

- Match volunteers services to their interests and concerns.
- Promote interest in watershed projects among volunteer groups.
- Seek projects and programs that:
  - \* recognize the value of volunteers to participate in setting direction and implementing projects.
  - \* identify and fund educational programs and projects that build on the individual group and agency motivation.
  - \* continue to encourage and fund projects and programs that result from consensus building based on coordinated planning.

#### TASKS:

- 1.

## CONSOLIDATION

### VISION STATEMENT -GOVERNMENT FORCES

GWEB will pursue its mission in an arena where federal and state laws also set directions and limit funds. Its budget requests will be based on accomplishing portions of comprehensive long-range plans for watersheds.

#### STEPS:

- Incorporate comprehensive long-range plans in the project selection process;
- Account for the effect of accrued water on adjacent land owners.

#### TASKS:

- 1.



## CONSOLIDATION

### VISION STATEMENT - TECHNICAL

The technical and scientific considerations related to watershed enhancement focus GWEB's mission on the areas of:

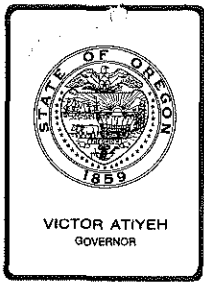
- Sustained Natural Resources
- Changing Technology and Biotechnology
- Integrated data bases
- Municipal water supplies
- Urban watersheds
- Ground water storage
- Watershed definition and size

### STEPS:

- Encourage use of alternative technology
- Describe/define elements of urban watersheds
- Capitalize on existing appropriate data bases for targeting project opportunities.

### TASKS:

- 1.



## *Environmental Quality Commission*

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WORK SESSION  
REQUEST FOR EQC DISCUSSION

Meeting Date: June 1, 1989

Agenda Item: 2

Division: Air Quality

Section: Program Operations

### ACHIEVEMENTS AND PROBLEMS AFTER THE ASBESTOS RULE ADOPTIONS IN APRIL 1988

The 1987 Legislative and subsequent Environmental Quality Commission (EQC) action created an asbestos training accreditation and worker certification program within the Department of Environmental Quality (DEQ). The program is successfully ensuring that properly trained workers are available to perform asbestos-related demolition/renovation work. Attachments B and C provide additional information about the asbestos control program achievements over the past year. There are, however, specific areas in which the scenario is not quite so rosy. The three main areas of concern are the prerequisites for asbestos supervisor training which unnecessarily restrict access to this training; difficulties in the application of our asbestos requirements at the residential level; and the fine tuning of the asbestos abatement rules after a year of experience.

### PROBLEMS WITH THE SUPERVISORS'S PREREQUISITES

We require that all full-scale asbestos jobs be overseen by a certified asbestos supervisor. Persons who want to take asbestos supervisor training are required to have worked as asbestos abatement workers for at least three months. In some instances, this is not practical. For example, many public and private schools would like to have their maintenance staff trained in proper asbestos removal/handling and perform most, if not all, of the in-house asbestos work. That way they will be able to ensure the work is performed properly, but at lower cost to the school system. Unfortunately, there is no way for the maintenance staff to meet the experience requirements for the supervisor training. As a result, the schools end up being precluded from performing the work with their own staffs. This same situation exists in other areas with building maintenance crew supervisors and environmental cleanup crew supervisors.

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Agenda Item: 2  
Page 2

To correct this problem, DEQ recommends that existing regulations be revised to allow work crew supervision to be an acceptable prerequisite for the asbestos supervisor training. Each applicant would still be required to complete both the full-scale worker and the supervisor training classes. Because of our concern that we might otherwise miss the opportunity for asbestos removal from schools during the 1989 summer break, we are requesting that the Commission adopt these rules on an emergency basis.

### PROBLEMS WITH THE RESIDENTIAL INDUSTRY

The residential situation is more complex. The current rules may actually be contributing to improper residential asbestos removal and handling, resulting in increased exposure and hindering DEQ's ability to control asbestos abatement.

When the Commission adopted the asbestos certification and contractor licensing requirements, an opportunity for an extension of time beyond January 1, 1989, was provided in case adequate training was not available and as a result, the public or worker health was threatened due to an inadequately trained work force. Mr. Tom Kelly, representing the Oregon Remodelers Association, has requested an extension of time until January 1, 1990, for the residential industry due to an inadequate work force, and/or certified workers or licensed contractors to safely conduct asbestos abatement. While Mr. Kelly, who is also a member of DEQ's Asbestos Advisory Board, does not suggest that the number of accredited training facilities or training courses has been insufficient to provide the training; he does indicate that the trained work force realistically available to perform residential asbestos-related projects is inadequate.

There are three main reasons for this. The first is a general lack of awareness of certification requirements on the part of the remodeling industry. The second is that even if remodelers are properly trained to conduct asbestos related work in compliance with DEQ requirements, the cost of insurance is prohibitively high. The third is that licensed full-scale asbestos abatement contractors are not willing to perform residential abatement projects due to the economy of scale. As a result, asbestos projects are being improperly conducted by either homeowners or uninformed remodelers, resulting in a danger to both public and worker health.

The request was reviewed by the Asbestos Advisory Board. After much debate, the Board recommended that the Commission approve an extension of the licensing and certification deadline for residential asbestos-related projects for six months, or all of 1989. During the period of this extension, two main actions will be undertaken: cooperative effort between DEQ and home remodelers' trade associations to improve the awareness of the

Meeting Date: June 1, 1989  
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Page 3

hazards associated with asbestos and asbestos-related regulations by home remodelers and the public, and discussions between the trade groups, DEQ, the Department of Insurance and Finance, and the insurance community in order to develop a lower insurance rate for home remodelers that engage in proper asbestos abatement procedures.

In view of the above, the DEQ is recommending EQC approval of the extension through the granting of a variance which would take effect immediately and end January 1, 1990.

FINE TUNING OF THE ASBESTOS ABATEMENT RULES

As mentioned at the beginning, other revisions are also being planned. These revisions can be handled through the standard rulemaking procedures. DEQ intends to bring this to the Commission in September. As outlined on Attachment A, these revisions include additional measures to ensure proper handling of asbestos, clarifications to better convey the intent of the existing rules, and housekeeping changes.

Also attached is a summary of program activity as Attachment B, and a report (Attachment C) on the asbestos program provided to the 1989 Legislature.

Approved:

Section: Wendy Davis

Division: Nick W. White

Director: Lydia Taylor

Report Prepared By: Bruce Arnold

Phone: 229-5506

Date Prepared: May 5, 1989

BEA:k  
ASB\AK1803A  
Attachments: A, B and C

FUTURE RULE REVISION PROPOSALS

DIVISION 25:

1. The phrase "All persons intending to conduct" needs to be clarified. These rules apply to any person who conducts asbestos abatement. The work "intent" was used because of the need to file advance notifications but the rule has been misinterpreted as applying only to those who purposefully undertake asbestos removal. (340-25-465(4))
2. Changes to the definition of "Small-Scale Asbestos Abatement Project" would allow increases in the amount of asbestos encapsulated, repaired or removed in small-scale projects.

A new term, "Significantly Damaged Asbestos-Containing Material," would qualify how much asbestos can be removed in a small-scale abatement project. The better the material's condition, the more which can be removed. Changes to this section may be particularly important for establishing permanent rules applicable to residences. (340-25-455(31) and 340-33-017)

3. This amendment excludes all types of nonfriable material, which is a form that does not release asbestos fibers, from control, providing it remains nonfriable. This change would be consistent with current Department practice. (340-25-465(4)(b))
4. Previously, small amounts of asbestos-containing material (0.5 square feet) were excluded from the rules; an amendment would change this to three square feet, making the rules more consistent with AHERA (Asbestos Hazard Emergency Response Act for K-12 schools). (340-25-465(4)(c))
5. Addition of requirements for "Interim Storage of Asbestos-Containing Waste Material," is proposed to ensure safe storage practices for asbestos between removal and final disposal.
6. The existing fee schedule for project notifications needs to be modified, so that a portion of the existing fee is a non-refundable filing fee which is retained to pay accounting costs whenever notifications are withdrawn. (340-25-465(5))
7. Notification usually requires a ten-day wait before commencement of work. Changes being considered will expand the emergency waiver provision to allow abatement activities to commence whenever an unscheduled event, such as a mill shutdown, creates the opportunity to remove asbestos-containing materials. (340-25-465(5)(c))

The existing rules increase notification fees by 50% if the notice is filed after job commencement. The same higher rate should apply to unscheduled or unexpected asbestos abatement activities filed less than ten days in advance. (340-25-465(5))

Notification procedures for small-scale abatement projects have had the unintended effect of causing some facility owners, particularly school districts, to obtain contractor's licenses for work done by in-house employees. Revision to the notification requirements for small-scale projects are needed to allow both small-scale contractors and facility owners to use the annual plan and eliminate the then unneeded monthly method of notification. (340-25-465(5)(b), 465(5)(c))

8. The Accident Prevention Division has recently amended its rules to comply with the Federal Occupation and Safety Administration's rules. As DEQ references various portions of the Accident Prevention Division's rules, adjustments will be necessary.

#### DIVISION 33:

1. Revised definition of small-scale asbestos abatement projects as discussed above. (340-33-020(17))
2. Permanent revision to allow certification of Supervisors for Full-Scale Asbestos Abatement based on demonstrated supervisory experience in lieu of hands-on experience. (340-33-050(3))
3. Provisions allowing equivalent worker trainer courses taught after January 1, 1987, to be retroactively accredited should be repealed, owing to the administrative problems associated with retroactively accrediting a training program and certifying students and the fully implemented status of the program. (340-33-060(1)(h))
4. Oregon is distinctive in that the Asbestos Program gives workers credit for prior training from other governmental or government-sanctioned training providers, such as the Washington state worker certification program. This amendment would require candidates for "grandfathering" to have had training within two years of application to DEQ. (340-33-080(2))

BEA:k  
ASB\AK1775 (5/89)

**ASBESTOS CONTROL PROGRAM  
STATISTICS**

**Activities Specified under Division 25  
Asbestos Abatement Requirements**

Abatement Project Notification	Year-to-Date
Full-Scale	433
Small-Scale	12
Facilities	<u>29</u>
TOTAL	474
Abatement Site Inspections	118

**Activities Specified under Division 33  
Licensing and Certification**

	April 29, 1988 Date	to
Total Number of Trainers Accredited	11	
Number of Trainers Accredited by Course Type		
Supervisor for Full-Scale Abatement	4 days	4
Supervisor Refresher	1 day	7
Full-Scale Abatement Worker	3 days	6
Full-Scale Refresher	1 day	8
Small-Scale Abatement Worker	2 days	9
Total Number of Workers Certified Date	April 29, 1988	to
Supervisors	288	
Full Scale Workers	1,088	
Small-Scale Workers	<u>913</u>	
Total	2,289	
Total Number of Full-Scale Contractor Licenses Issued Since December 1, 1988	51	
Total Number of Small-Scale Contractors Licenses Issued Since December 1, 1988.	17	

THE ASBESTOS CONTROL PROGRAM IN OREGON

A REPORT TO THE LEGISLATURE

Department of Environmental Quality

Asbestos Control Program

Air Quality Division

March, 1989



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## ATTACHMENTS

- Attachment A - Oregon Asbestos Advisory Board
- Attachment B - Training Providers Accredited by DEQ
- Attachment C - Asbestos Abatement Contractors Licensed by DEQ
- Attachment D - Asbestos Abatement Requirements  
excerpted from Oregon Administrative Rules  
340-25-450 through -465.
- Attachment E - Licensing and Certification Requirements:  
Asbestos Requirements  
Oregon Administrative Rules 340-33-010  
through -100.
- Attachment F - Asbestos Abatement Fee Schedules

# THE ASBESTOS CONTROL PROGRAM IN OREGON

## REPORT TO THE LEGISLATURE

### 1. CHARACTERISTICS OF ASBESTOS

Asbestos is a family of naturally occurring minerals that separate into microscopically small fibers. Asbestos was once considered to be a "miracle fiber" because of its heat and electrical insulating ability, resistance to corrosion, and tensile strength.

Asbestos has been used in over 3000 commercial products. It can be found in residential, industrial, commercial, and institutional facilities built or remodelled between the 1920's and the early 1980's. Common uses in buildings include boiler and pipe insulation, sprayed-on fireproofing, sprayed-on ceiling textures or sound insulation, floor tiles and sheeting, roofing products, cement pipe and shingles, and appliances. Some of these products are nonfriable, not easily crushed or pulverized in a way that would release asbestos fibers. Other friable asbestos products are soft or crumbly and will release fibers when disturbed.

Asbestos is a potent human carcinogen. Diseases induced by asbestos include lung cancer and mesothelioma, a rare and untreatable cancer of the lung lining, and other cancers of the gastro-intestinal tract. Asbestos exposure can also cause asbestosis, a noncancerous but fatal disease. Asbestos-related disease onset generally occurs fifteen to forty years after the first exposure.

Massive exposure, such as shipyard workers received during World War II, is clearly not prerequisite to contracting these diseases. In general, the risk of disease is dose-related, with the chance of disease occurring increasing with exposure. However, particularly sensitive individuals have contracted and died of asbestos-induced diseases after minimal exposures. No amount of asbestos exposure is considered to be completely safe.

### 2. LEGISLATIVE BACKGROUND

In 1987, the Oregon Legislature recognized that airborne asbestos fibers are a danger to the public health, that there is no known safe level of exposure, and that asbestos-containing building materials pose a potential health hazard in Oregon. The Legislature also found it in the public interest to reduce public exposure to asbestos resulting from the rising number of asbestos abatement projects by upgrading the knowledge, skills, and competence of contractors and workers who handle asbestos-containing building materials.

House Bill 2367 was developed to reduce these exposures. As adopted, the legislation directs the Environmental Quality Commission to establish asbestos abatement training, certification, and licensing standards and procedures.

An asbestos advisory board was established to advise the Commission in lawmaking and other asbestos matters.

The legislation also amended the public contracts and purchasing law to require public agencies to note in bid advertisements if an asbestos abatement contractor's license would be required.

### 3. ROLE OF THE OREGON ASBESTOS ADVISORY BOARD

The Oregon Asbestos Advisory Board consists of representatives of state agencies, the public, and the regulated community. In addition, the Department appointed technical advisors to provide additional expertise to the Board. The members and their affiliations are listed in Attachment A.

The Board met with the Department repeatedly beginning in November, 1987. Mr. George Guntermann was elected to chair the Board. The members committed to coordinating the new rules with existing programs, including the worker protection regulations of the Department of Insurance and Finance Accident Prevention Division (APD), the federal requirements for asbestos in schools (Asbestos Hazard Emergency Reduction Act or AHERA), and the existing DEQ regulations. Another goal was to develop enforceable regulations which were protective of the public and worker health, yet not so rigorous as to drive abatement activity underground. The Board acted by consensus.

In-depth consideration was given to establishing levels of worker certification that reflected the different types of abatement and responsibility that workers encounter. The resultant levels of certification apply to full-scale asbestos abatement workers, small-scale asbestos abatement workers, and supervisors for full-scale asbestos abatement work. Small-scale work involves limited quantities of asbestos-containing materials and special work techniques to prevent worker exposure and asbestos release. Most small-scale work is incidental to the primary purpose of a task, such as maintenance or repair work.

The small-scale worker is trained in a two day class. For larger projects, a three day class is required for the full-scale abatement worker. Supervisors for full-scale projects receive additional training through a four day class. At least six hours is devoted to hands-on training in each of these classes.

The Board also gave detailed consideration to requirements for supervisors' experience, testing of students, card issuance procedures, fees, and exemptions for minimal amounts and nonhazardous forms of asbestos. Reciprocity procedures were established for workers initially trained in other states, making Oregon one of the first states to effectively address this topic.

### 4. PROMULGATION OF ADMINISTRATIVE RULES

The rule package endorsed by the advisory board was released for public comment on February 1, 1988. Public hearings were held in March in Portland, Springfield, Medford, Bend, and Pendleton. Most of the hearings were well attended and significant written and oral public testimony was received. Rules reflecting the public comments were taken to the Commission and were adopted on April 29, 1988.

The rule adoption covered two sets of rules. First, modifications were made to the existing requirements for asbestos control during renovation and demolition (Oregon Administrative Rules (OAR) Chapter 340 Division 25). These modifications, including fees for filing asbestos abatement notifications with the Department, took effect on June 1, 1988. In addition, Division 33, Licensing and Certification Requirements, was adopted. Mandatory contractor licensing and worker certification took effect on January 1, 1989.

Worker training is required prior to certification. For full-scale abatement work, the Commission determined that the work practices and regulatory requirements were undergoing continual change. Consequently, annual refresher training was required for full-scale asbestos abatement workers and supervisors.

#### 5. IMPLEMENTATION OF ADMINISTRATIVE RULES

The rules set up a three phase implementation process. The initial phase involved accrediting of organizations to perform the required training. Prospective training providers were contacted. Once applications were received by the Department they were reviewed and revised until the criteria for course content, hands-on training, and training provider credentials were satisfied.

During 1988, five training providers were accredited. In January of 1989 two additional providers were accredited and review continued on another two applicants. After extensive consideration, the community colleges determined not to become asbestos abatement training providers. Several of the colleges have, however, offered courses by the accredited training providers at their campuses.

Initiation of the second phase of the process, training and certification of asbestos abatement workers, rapidly followed the first accreditation. Between September and December of 1988, eighty-eight course offerings were given in the Portland area and nine other Oregon cities. Over 1500 workers were trained and certified, as shown below:

Small-Scale Asbestos Abatement Worker.....	522
Full-Scale Asbestos Abatement Worker.....	838
<u>Supervisor for Full-Scale Asbestos Abatement ..</u>	<u>175</u>
Total	1535

During 1989, the training providers have continued to provide many opportunities for training at each certification level. The Department will continue to conduct audits of the training classes to insure that all training requirements are satisfied.

The third phase of program implementation was the licensing of asbestos abatement contractors. Only contractors who have appropriately certified workers can receive a license, which may be for either small-scale work only or for all asbestos abatement work. During December of 1988, thirty contractors were licensed. Another ten contractors received licenses during January 1989.

A current list of accredited training providers and licensed contractors are included in Attachments B and C. The current rules and fee schedule are provided in Attachments D (Division 25); E (Division 33), and F.

#### 6. STATUS OF THE ASBESTOS CONTROL PROGRAM

On January 1 of this year, the Department entered a new phase in protecting the public from this extremely hazardous air pollutant. For the first time, handling of asbestos-containing building materials is limited to those persons with specialized training and hands-on experience in the techniques needed to protect themselves and all others from harmful exposure.

As reflected in the numbers above, the program was implemented smoothly. The prompt response of training providers to the need for training classes ensured that the certification requirements did not restrict the availability of workers. Most of the asbestos abatement contractors who had been recently active in the state had received licenses in time to ensure the availability of asbestos abatement services.

In addition to the licensing and certification programs, the Department conducts on-site inspections of known asbestos abatement projects and other demolition and renovations projects. This effort, as well as the certification, licensing, accreditation, and assistance programs, is funded primarily by asbestos abatement fees. A federal grant supports the remainder of the program.

Currently, the Department's asbestos control program is staffed by five asbestos control specialists and one supervisor. Four of the specialists are in limited duration positions which were filled during 1988. One of the specialists conducts the licensing and certification programs, including training provider accreditation. The other specialists implement the enforcement program, ensure that landfills which accept asbestos dispose of the material properly, provide technical assistance, coordinate with the Accident Prevention Division, and assist in the licensing and certification program. During 1988, they conducted 209 inspections, resulting in 16 enforcement actions. Eight of these enforcement actions were civil penalty assessments for violations of the asbestos work practice requirements.

#### 7. OUTLOOK FOR THE 1989-1991 BIENNIUM

Asbestos abatement is a rapidly growing industry in Oregon. This increase has been caused by various forces, including a rising general knowledge of the hazards which asbestos in buildings can present and the attendant liability. Activity has also increased as financial institutions have required asbestos removal as a condition of sale. This has prompted many removal projects in major buildings, with little regard for the current condition of the asbestos-containing materials.

This increase is reflected in the project notifications which the Department receives. The number of notifications rose from 599 in 1986 to 858 in 1987. In 1988, the Department received notification of 1338 asbestos abatement projects. During the next biennium, the number of notifications is likely to rise to 2000 per year.

With such rapid change, the continued success of our program will be conditioned on two critical factors: the effectiveness of the regulations and the Department's ability to enforce the regulations. Enforceability depends in large part on the frequency of project inspections. The Department has submitted a budget decision package which would convert the existing limited duration positions to permanent positions and add three additional positions over the 1989-1991 biennium. This would enable the Department to maintain or slightly improve on the current level of compliance assurance during the next biennium.

As experience accumulates under the new and revised rules, potential refinements in the rules can be identified. In coming months, the Department will be working closely with the advisory board, the training providers, the regulated community, and the Accident Prevention Division on rule refinements. For example, we intend to evaluate the effectiveness of the rules for residential buildings and identify any measures which can facilitate compliance by the contractors while insuring protection for the homeowner and other occupants.

Effectiveness of the program is also affected by the level of responsibility which is placed on various parties when asbestos-containing building materials are handled and by the degree to which affirmative steps are taken to prevent exposure during the planning and execution of a building project. Under the Environmental Protection Agency's National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations, both the building owner and the project operator are responsible for ensuring that proper notification, work practice, and disposal procedures are followed. Since the Department implements the NESHAPs program in Oregon under a delegation agreement, it is essential that requirements of OAR Chapter 340 Division 25 apply to both the owner and contractor. It recently has become apparent that the existing statute lacks clarity in this area.

The affirmative steps which can be taken to ensure that asbestos is properly handled begin with a knowledge of what asbestos is in a building. The Department encourages building owners and property managers to have asbestos surveys performed prior to any building renovation or demolition activity which could cause the release of airborne asbestos.

#### 8. RELATED ISSUES

Several other asbestos-related issues are likely to surface in 1989. One of these is the control of asbestos in state buildings. The Department was pleased to participate in the Governor's task force on asbestos in state buildings, and supports the recommendations of that group. The worker certification and contractor licensing programs should facilitate implementation of an effective policy for asbestos in state buildings.

The Department has also conferred with the Correction Industries Division of the Corrections Department regarding the development of a program which would provide asbestos abatement worker certification to prison inmates. The Department encourages this type of program as a cost efficient means of providing effective asbestos abatement in state facilities.

Federal developments in asbestos control include a push to extend AHERA-type requirements to all public buildings. AHERA currently requires that all K-12 schools be thoroughly inspected, have asbestos management plans developed and implemented, and have all phases of asbestos control performed by appropriately certified personnel. Certification of inspectors, project designers, management planners, workers, and contractors is required. The Environmental Protection Agency is also expected to develop revisions in the National Emission Standards for Hazardous Air Pollutant regulations which may impact the state regulations.

ATTACHMENT A

OREGON ASBESTOS ADVISORY BOARD

Steve Beech  
Accident Prevention Division  
OR Department of Insurance and Finance  
Labor & Industries Building  
Salem, OR 97310  
AGENCY REPRESENTATIVE

Bill Candee  
Cascade Insulation, Inc.  
P.O. Box 6498  
Bend, OR 97708  
ADVISOR

Paul Carlson  
Asbestos Resources, Inc.  
825 NE 20th Avenue  
Portland, OR 97232-2295  
BUSINESS REPRESENTATIVE

Bob Clausen, Director  
OR Department of Education  
Community College Instructional Services  
700 SE Pringle Parkway  
Salem, OR 97310-0290  
AGENCY REPRESENTATIVE

Dave Clemens, Chair  
Oregon Builders Board  
P.O. Box 1000  
Sisters, OR 97759  
BUILDERS BOARD REPRESENTATIVE

Stan Danielson, Business Agent  
Intl. Assoc. of Heat & Frost Insulators  
Asbestos Workers, Local No. 36  
11105 NE Sandy Boulevard  
Portland, OR 97220  
LABOR REPRESENTATIVE

Cyd Dienel, R.N.  
730 California Street  
Jacksonville, OR 97530  
PUBLIC REPRESENTATIVE

Bill Barendrick  
Alex Brown Realty Advisors  
121 SW Morrison  
Suite 1225  
Portland, OR 97204  
ADVISOR

Ira Griffith  
Cook & Emele Heating Service  
3635 10th Street  
Baker, OR 97814  
ADVISOR

George Guntermann  
Page-Guntermann, Inc.  
P.O. Box 5187  
Salem, OR 97304  
SMALL BUSINESS REPRESENTATIVE

Steven Hecker, Assistant Professor  
University of Oregon  
Labor & Education Research Center  
154 Prince Lucien Campbell Hall  
Eugene, OR 97404-1289  
PUBLIC REPRESENTATIVE

Kenneth Keudell, Administrator  
OR Building, Housing & Real Estate  
Council  
700 Summer St. NE, Suite 300  
Salem, OR 97310  
ADVISOR - BUILDERS BOARD

Quint Rahberger, Administrator  
OR Bureau of Labor & Industries  
Apprenticeship & Training Division  
1400 SW 5th Avenue, 4th Floor  
Portland, OR 97201  
AGENCY REPRESENTATIVE

Dr. Lester Wright  
Health Officer and Deputy Administrator  
OR State Health Division  
1400 SW 5th Avenue  
Portland, OR 97201  
AGENCY REPRESENTATIVE

Lydia Taylor  
Department of Environmental Quality  
Management Services Division  
811 SW 6th Avenue  
Portland, OR 97204  
AGENCY REPRESENTATIVE



ATTACHMENT B

Oregon Department of Environmental Quality  
Asbestos Control Program  
811 SW Sixth  
Portland, OR 97204  
229-5506

The following training providers have been accredited to give various asbestos abatement worker courses for certification. The accredited training providers are listed in alphabetical order below:

1. Hazcon, Inc.  
9500 SW Barbur  
Portland, OR 97219  
Telephone: (503) 244-8045
2. Laborers'/A.G.C. Apprenticeship  
& Training Program  
Route 5, Box 325A  
Corvallis, OR 97330  
Telephone: (503) 745-5513
3. Hall-Kimbrell Environmental Services  
5319 SW Westgate, Suite 239  
Portland, OR 97221  
Telephone: (503) 292-9406
4. Marine and Environmental Testing, Inc.  
P.O. Box 1142  
Beaverton, OR 97075  
Telephone: (503) 286-2950
5. NAC Corporation  
1005 NW Galveston, Suite E  
Bend, OR 97701  
Telephone: (503) 389-9727
6. National Training Center, Inc.  
123 NW Second Avenue, Suite 309  
Portland, OR 97209  
Telephone: (503) 224-8834
7. Northwest Envirocon, Inc.  
P.O. Box 22006  
Milwaukie, OR 97222  
Telephone: (503) 659-8899

Accredited training providers are organized by asbestos abatement courses below.

1. Certified Supervisor for Full-Scale Abatement - Initial Course  
Hazcon, Inc.  
Laborers'/A.G.C. Apprenticeship and Training Program  
Northwest Envirocon, Inc.
2. Certified Supervisor for Full-Scale Abatement - Refresher Course  
Hazcon, Inc.  
Laborers'/A.G.C. Apprenticeship and Training Program  
National Training Center, Inc.  
Northwest Envirocon, Inc.
3. Certified Full-Scale Abatement Worker - Initial Course  
Hall-Kimbrell Environmental Services  
Hazcon, Inc.  
Laborers'/A.G.C. Apprenticeship & Training Program  
National Training Center  
Northwest Envirocon, Inc.
4. Full-Scale Abatement Worker - Refresher Course  
Hall-Kimbrell Environmental Services  
Hazcon, Inc.  
Laborers'/A.G.C. Apprenticeship & Training Program  
Marine and Environmental Testing, Inc.  
National Training Center, Inc.  
Northwest Envirocon, Inc.
5. Small-Scale Abatement Worker  
Hall-Kimbrell Environmental Services  
Hazcon, Inc.  
Marine and Environmental Testing, Inc.  
NAC Corporation  
National Training Center, Inc.  
Northwest Envirocon, Inc.

For current information, call 229-5506.

LICENSED ASBESTOS ABATEMENT FIRMS

The following is a list of asbestos removal firms that have obtained a license from the Department of Environmental Quality. The inclusion of a firm on this list does not constitute an endorsement by this office. Services provided and costs are solely determined between firm and customer.

A.A. Contractors, Inc.  
PO Box 80306  
Seattle, WA 98108  
(206) 767-4650

A C and S, Inc.  
2151 NW Wilson  
Portland, OR 97210  
(503) 227-6444

Allwaste Asbestos Abatement, Inc.  
P.O. Box 6009  
6906 NE 40th, Suite B  
Vancouver, WA 98668-6009  
(503) 775-3958  
(206) 256-7557 (503) 775-6883

Alpine Abatement Associates, Inc.  
PO Box 1557  
Bend, OR 97708  
(503) 388-2672

Asbestos Removers, Inc.  
1420 Center Park Road  
Lincoln, NB 68512  
(402) 423-6631

ATEZ, Inc.  
P.O. Box 126  
Harrisburg, OR 97446  
(503) 995-6008

Bartells Material Management, Inc.  
3721 NW Front Avenue  
PO Box 3086  
Portland, OR 97208  
(503) 228-9367

Can Environmental, Inc.  
P.O. Box 8758  
1231 NW Hoyt, Suite 205  
Portland, OR 97207  
(503) 274-9460

Carpenter Contractors, Inc.  
Route 4, Box 49  
Hillsboro, OR 97123  
(503) 628-2488

Cascade Industrial Maintenance  
Co., Inc.  
2406 North 100th Street  
Vancouver, WA 98686  
(206) 574-0561

Cascade Insulation, Inc.  
P.O. Box 6498  
388 NE Addison  
Bend, OR 97708  
(503) 388-2600

Central Industries, Inc.  
4749 SW West Marginal Way  
Seattle, WA 98106  
(206) 932-8116

Crosby and Overton, Inc.  
5420 North Lagoon  
Portland, OR 97217  
(503) 283-1150

Excel Environmental, Inc.  
PO Box 4444  
Portland, OR 97208  
(503) 225-1307

Form Contracting, Inc.  
P.O. Box 126  
Harrisburg, OR 97446

Gerry Hobson General  
Contracting, Inc.  
12604 NE 172nd Avenue  
Brush Prairie, WA 98606  
(206) 254-4893

High-Temp Northwest  
P.O. Box 23936  
Tigard, OR 97223  
(503) 684-3920

Insulation Removal Corporation  
P.O. Box 485  
Boring, OR 97009  
(503) 658-6606

Insulation Removal Specialists  
8900 SW Burnham East 7  
Tigard, OR 97223  
(503) 684-6105

Interstate Industrial Mechanical,  
Inc.  
P.O. Box 51  
Stevenson, WA 98648  
(206) 427-4392

Kenner Incorporated  
80179 Delight Valley School Road  
Cottage Grove, OR 97424  
(503) 942-0739  
(503) 942-4905

Keystone Contracting, Inc.  
P.O. Box 921  
Vancouver, WA 98666  
(206) 574-9040

Lake Oswego Insulation Co.  
7400 SW Macadam Avenue  
Portland, OR 97219  
(503) 245-6460

Link-Osborn Company  
15665 Medina Road  
Plymouth, MN. 55447

Long Services Corporation  
P.O. Box C-81435  
Seattle, WA 98108  
(206) 763-8433

LVI Environmental Services, Inc.  
205 North Page  
Portland, OR 97227  
(503) 287-7344

McCoy General Services, Inc.  
2106 SE Division  
Portland, OR 97202  
(503) 232-1807

Northern Asbestos Abatement Company  
2815 Second Avenue  
Seattle, WA 98121  
(206) 448-2262

Pacific Mechanical Insulation  
PO Box 4846  
107 E 40th  
Boise, ID 83714  
(208) 344-8668

Performance Abatement Services,  
Inc.  
3201 SW 13th Avenue  
Seattle, WA 98134  
(206) 467-8733

Power Master  
115 "V" Street  
Vancouver, WA 98661  
(206) 694-5012

Precision Asbestos Abatement  
Company  
8025 NE Killingsworth  
Portland, OR 97218  
(503) 253-4827

Professional Environmental  
Associates  
P.O. Box 2247  
Eugene, OR 97402  
(503) 688-6062

Roberts Environmental  
Services, Inc.  
1719 Irving  
Eugene, OR 97402  
(503) 688-4531

Spartan Insulation Services Co.  
7911 NE 33rd Drive, Suite 310  
Portland, OR 97211  
(503) 282-0175

U.S. Insulation Services, Inc.  
P.O. Box 03096  
Portland, OR 97203-0096  
(503) 286-4656

Wagner Environmental Services, Inc.  
2106 SE Division Street  
Portland, OR 97202  
(503) 232-1807

Willamette Insulation, Inc.  
1873 Willamette Falls Drive  
West Linn, OR 97068  
(503) 657-3666  
1-800-234-2122

WL Thomas  
P.O. Box 8  
2710 SE Grand Prairie Road  
Albany, OR 97321  
(503) 928-5383

AK1287 (3/89)

OREGON ADMINISTRATIVE RULES  
CHAPTER 340, DIVISION 25 - DEPARTMENT OF ENVIRONMENTAL QUALITY

ASBESTOS ABATEMENT REQUIREMENTS  
excerpted from  
Emission Standards and Procedural  
Requirements for Hazardous Air Contaminants

POLICY

340-25-450

The Commission finds and declares that certain air contaminants for which there is no ambient air standard may cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness, and are therefore considered to be hazardous air contaminants. Air contaminants currently considered to be in this category are asbestos, beryllium, and mercury. Additional air contaminants may be added to this category provided that no ambient air standard exists for the contaminant, and evidence is presented which demonstrates that the particular contaminant may be considered as hazardous. It is hereby declared the policy of the Department that the standards contained herein and applicable to operators are to be minimum standards, and as technology advances, conditions warrant, and Department or regional authority rules require or permit, more stringent standards shall be applied.

DEFINITIONS

340-25-455

As used in this rule, and unless otherwise required by context:

- (1) "Asbestos" means...the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite."
- (2) "Asbestos-containing waste material" means any waste which contains commercial asbestos and is generated by a source subject to the provisions of this subpart, or friable asbestos material including, but not limited to, asbestos mill tailings, control device asbestos waste, friable asbestos waste material, asbestos abatement project waste, and bags or containers that previously contained commercial asbestos.

(3) **"Asbestos abatement project"** means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or disposal of any material with the potential of releasing asbestos fibers from asbestos-containing material into the air."

NOTE: An asbestos abatement project is not considered to be a source under OAR 340-25-460(2) through (6). Emergency fire fighting is not an asbestos abatement project.

(5) **"Asbestos-containing material"** means asbestos or any material containing at least 1% asbestos by weight, including particulate asbestos material.

(12) **"Commercial asbestos"** means any variety of asbestos which is produced by extracting asbestos from asbestos ore.

(13) **"Commission"** means the Environmental Quality Commission.

(14) **"Demolition"** means the wrecking or removal of any structural member of a facility together with related handling operations.

(15) **"Department"** means the Department of Environmental Quality.

(16) **"Director"** means the Director of the Department or regional authority and authorized deputies or officers.

(17) **"Facility"** means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(18) **"Friable asbestos material"** means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry."

(19) **"HEPA filter"** means a high efficiency particulate air filter capable of filtering 0.3 micron particles with 99.97 percent efficiency.

(20) **"Hazardous air contaminant"** means any air contaminant considered by the Department or Commission to cause or contribute to an identifiable and significant increase in mortality or to an increase in serious irreversible or incapacitating reversible illness and for which no ambient air standard exists.

(25) **"Particulate asbestos material"** means any finely divided particles of asbestos material.

(26) **"Person"** means any individual, corporation, association, firm, partnership, joint stock company, public and municipal corporation, political sub-division, the state and agency thereof, and the federal government and any agency thereof.

- (29) "Regional authority" means any regional air quality control authority established under the provisions of ORS 468.505.
- (30) "Renovation" means altering in any way one or more facility components. Operations in which load-supporting structural members are wrecked or removed are excluded.
- (31) "Small-scale asbestos abatement project" means any asbestos abatement project which meets the definition given in OAR 340-33-020(17).
- (33) "Structural member" means any load-supporting member of a facility, such as beams and load-supporting walls; or any non-supporting member, such as ceilings and non-load-supporting walls.

#### GENERAL PROVISIONS

##### 340-25-460

- (1) **Applicability.** The provisions of these rules shall apply to any source which emits air contaminants for which a hazardous air contaminant standard is prescribed. Compliance with the provisions of these rules shall not relieve the source from compliance with other applicable rules of the Oregon Administrative Rules, Chapter 340, or with applicable provisions of the Oregon Clean Air Implementation Plan.
- (7) **Delegation of authority.** The Commission may, when any regional authority requests and provides evidence demonstrating its capability to carry out the provisions of these rules relating to hazardous contaminants, authorize and confer jurisdiction within its boundary until such authority and jurisdiction shall be withdrawn for cause by the Commission.

#### EMISSION STANDARDS AND PROCEDURAL REQUIREMENTS FOR ASBESTOS

##### 340-25-465

- (4) **Asbestos abatement projects.** All persons intending to conduct or provide for the conduct of an asbestos abatement project shall comply with the requirements set forth in OAR 340-25-465(5), (6), and (7). The following asbestos abatement projects are exempt from these requirements:
  - (a) Asbestos abatement conducted in a private residence which is occupied by the owner and the owner-occupant performs the asbestos abatement.

- (b) Removal of vinyl asbestos floor tile that is not attached by asbestos-containing cement, exterior asbestos roofing shingles, exterior asbestos siding, asbestos-containing cement pipes and sheets, and other materials approved by the Department provided that the materials are not caused to become friable or to release asbestos fibers. Precautions taken to ensure that this exemption is maintained may include but are not limited to:
  - (A) Asbestos-containing materials are not sanded, or power sawn or drilled;
  - (B) Asbestos-containing materials are removed in the largest sections practicable and carefully lowered to the ground;
  - (C) Asbestos-containing materials are handled carefully to minimize breakage throughout removal, handling, and transport to an authorized disposal site.
  - (D) Asbestos-containing materials are wetted prior to removal and during subsequent handling, to the extent practicable.
  
- (c) Removal of less than 0.5 square feet of friable asbestos-containing material provided that the removal of asbestos is not the primary objective and the following conditions are met:
  - (A) The generation of particulate asbestos material is minimized.
  - (B) No vacuuming or local exhaust ventilation and collection is conducted with equipment having a collection efficiency lower than that of a HEPA filter.
  - (C) All asbestos-containing waste materials shall be cleaned up using HEPA filters or wet methods.
  - (D) Asbestos-containing materials is wetted prior to removal and during subsequent handling, to the extent practicable.
  - (E) An asbestos abatement project shall not be subdivided into smaller sized units in order to qualify for this exemption.
  
- (d) Removal of asbestos-containing materials which are sealed from the atmosphere by a rigid casing, provided that the casing is not broken or otherwise altered such that asbestos fibers could be released during removal, handling, and transport to an authorized disposal site.



Note: The requirements and jurisdiction of the Department of Insurance and Finance, Accident Prevention Division and any other state agency are not affected by these rules.

(5) **Notification Requirements.** Written notification of any asbestos abatement project shall be provided to the Department on a Department form. The notification must be submitted by the facility owner or operator or by the contractor in accordance with one of the procedures specified in subsection (a), (b), or (c) below except as provided in subsections (e), (f), and (g) below.

(a) Submit the notifications as specified in subsection (d) below and the project notification fee to the Department at least ten days before beginning any asbestos abatement project.

(A) The project notification fee shall be:

(i) Twenty-five dollars (\$25) for each small-scale asbestos abatement project.

(ii) Fifty dollars (\$50) for each project greater than a small-scale asbestos abatement project and less than 260 linear feet or 160 square feet.

(iii) Two-hundred dollars (\$200) for each project greater than 260 linear feet or 160 square feet, and less than 2600 linear feet or 1600 square feet.

(iv) Five hundred dollars (\$500) for each project greater than 2600 linear feet or 1600 square feet.

(B) Project notification fees shall be payable with the completed project notification form. No notification will be considered to have occurred until the notification fee is submitted.

(C) Notification of less than ten days is permitted in case of an emergency involving protection of life, health or property. Notification shall include the information contained in subsection (d) below, and the date of the contract if applicable. If original notification is provided by phone, written notification and the project notification fee shall be submitted within three (3) days after the start of the emergency abatement.

(D) The Department must be notified prior to any changes in the scheduled starting or completion dates or other substantial changes or the notification will be void.

- (b) For small-scale asbestos abatement projects conducted at one facility, the notification may be submitted as follows:
  - (A) Establish eligibility for use of this notification procedure with the Department prior to use;
  - (B) Maintain on file with the Department a general asbestos abatement plan. The plan shall contain the information specified in subsections (d)(A) through (d)(I) below, to the extent possible;
  - (C) Provide to the Department a summary report of all small-scale asbestos abatement projects conducted at the facility in the previous three months by the 15th day of the month following the end of the calendar quarter. The summary report shall include the information specified in subsections (d)(J) through (d)(M) below for each project, a description of any significant variations from the general asbestos abatement plan; and a description of asbestos abatement projects anticipated for the next quarter;
  - (D) Submit a project notification fee of two-hundred dollars per year (\$200/year) prior to use of this notification procedure and annually thereafter while this procedure is in use.
  - (E) Failure to provide payment for use of this notification procedure shall void the general asbestos abatement plan and each subsequent abatement project shall be individually assessed a project notification fee.
- (c) For small-scale asbestos abatement projects conducted by a contractor at one or more facilities, the notification may be submitted as follows:
  - (A) Establish eligibility for use of this procedure with the Department prior to use;
  - (B) Maintain on file with the Department a general asbestos abatement plan containing the information specified in subsections (d)(A) through (d)(G), to the extent possible;
  - (C) Provide to the Department a monthly summary of all small-scale projects performed by the 15th day of the following month including the information specified in subsections (d)(H) through (d)(M) below and a description of any significant variations from the general asbestos abatement plan for each project;

- (D) Provide to the Department, upon request, a list of asbestos abatement projects which are scheduled or are being conducted at the time of the request; and
  - (E) Submit a notification fee of \$25 per monthly summary prior to the use of this notification procedure.
  - (F) Failure to provide payment for use of this notification procedure shall void the general asbestos abatement plan and each subsequent abatement project shall be individually assessed a project notification fee.
- (d) The following information shall be provided for each notification:
- (A) Name and address of person intending to engage in asbestos abatement.
  - (B) Contractor's Oregon asbestos abatement license number, if applicable, and certification number of the supervisor for full-scale asbestos abatement or certification number of the trained worker for a project which does not have a certified supervisor.
  - (C) Method of asbestos abatement to be employed.
  - (D) Procedures to be employed to insure compliance with OAR 340-25-465.
  - (E) Names, addresses, and phone numbers of waste transporters.
  - (F) Name and address or location of the waste disposal site where the asbestos-containing waste material will be deposited.
  - (G) Description of asbestos disposal procedure.
  - (H) Description of building, structure, facility, installation, vehicle, or vessel to be demolished or renovated, including address or location where the asbestos abatement project is to be accomplished.
  - (I) Facility owner's or operator's name, address and phone number.
  - (J) Scheduled starting and completion dates of asbestos abatement work.
  - (K) Description of the asbestos type, approximate asbestos content (percent), and location of the asbestos-containing material.

- (L) Amount of asbestos to be abated: linear feet, square feet, thickness.
  - (M) Any other information requested on the Department form.
- (e) No project notification fee shall be assessed for asbestos abatement projects conducted in the following residential buildings: site-built homes, modular homes constructed off site, condominium units, mobile homes, and duplexes or other multi-unit residential buildings consisting of four units or less. Project notification for a full-scale asbestos abatement project, as defined in OAR 340-33-020(14), in any of these residential buildings shall otherwise be in accordance with subsection (5)(a) of this section. Project notification for a small-scale asbestos abatement project, as defined in OAR 340-33-020(17), in any of these residential buildings is not required.
- (f) The project notification fees specified in this section shall be increased by 50% when an asbestos abatement project is commenced without filing of a project notification and/or submittal of a notification fee.
- (g) The Director may waive part or all of a project notification fee. Requests for waiver of fees shall be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship.
- (h) Pursuant to ORS 468.535, a regional authority may adopt project notification fees for asbestos abatement projects in different amounts than are set forth in this rule. The fees shall be based upon the costs of the regional authority in carrying out the delegated asbestos program. The regional authority may collect, retain, and expend such project notification fees for asbestos abatement projects within its jurisdiction.
- (6) Work practices and procedures. The following procedures shall be employed during an asbestos abatement project to prevent emissions of particulate asbestos material into the ambient air:
- (a) Remove friable asbestos materials before any wrecking or dismantling that would break up the materials or preclude access to the materials for subsequent removal. However, friable asbestos materials need not be removed before demolition if:
    - (A) They are on a facility component that is encased in concrete or other similar material; and
    - (B) These materials are adequately wetted whenever exposed during demolition.

- (b) Adequately wet friable asbestos materials when they are being removed. In renovation, maintenance, repair, and construction operations, wetting that would unavoidably damage equipment is not required if the owner or operator:
  - (A) Demonstrates to the Department that wetting would unavoidably damage equipment, and
  - (B) Uses a local exhaust ventilation and collection system designed and operated to capture the particulate asbestos material produced by the asbestos abatement project.
- (c) When a facility component covered or coated with friable asbestos materials is being taken out of the facility as units or in sections:
  - (A) Adequately wet any friable asbestos materials exposed during cutting or disjuncting operation; and
  - (B) Carefully lower the units or sections to ground level, not dropping them or throwing them.
- (d) For friable asbestos materials being removed or stripped:
  - (A) Adequately wet the materials to ensure that they remain wet until they are disposed of in accordance with OAR 340-25-465(13); and
  - (B) Carefully lower the materials to the floor, not dropping or throwing them; and
  - (C) Transport the materials to the ground via dust-tight chutes or containers if they have been removed or stripped above ground level and were not removed as units or in sections.
- (e) If a facility is being demolished under an order of the State or a local governmental agency, issued because the facility is structurally unsound and in danger of imminent collapse, the requirements of subsections (a), (b), (c), (d), and (f) of this section shall not apply, provided that the portion of the facility that contains friable asbestos materials is adequately wetted during the wrecking operation.
- (f) None of the operations in subsections (a) through (d) of this section shall cause any visible emissions. Any local exhaust ventilation and collection system or other vacuuming equipment used during an asbestos abatement project, shall be equipped with a HEPA filter or other filter of equal or greater collection efficiency.

- (g) Contractors licensed and workers certified to conduct only small-scale asbestos abatement projects under OAR 340-33 may use only those work practices and engineering controls specified by OAR 437 Appendix 83-G (Asbestos) (9/17/87) unless the Department authorizes other methods on a case-by-case basis.
  - (h) The Director may approve, on a case-by-case basis, requests to use an alternative to a specific worker or public health protection requirement as provided by these rules for an asbestos abatement project. The contractor or facility owner or operator must submit in advance a written description of the alternative procedure which demonstrates to the Director's satisfaction that the proposed alternative procedure provides worker and public health protection equivalent to the protection that would be provided by the specific provision, or that such level of protection cannot be obtained for the asbestos abatement project.
- (7) Related Work Practices and Controls Work practices and engineering controls employed for asbestos abatement projects by contractors and/or workers who are not otherwise subject to the requirements of the Oregon Department of Insurance and Finance, Accident Prevention Division shall comply with the subsections of OAR Chapter 437 Division 83 which limit the release of asbestos-containing material or exposure of other persons. As used in this subsection the term employer shall mean the operator of the asbestos abatement project and the term employee shall mean any other person.
- (13) Disposal of asbestos-containing waste material: The owner or operator of any source covered under the provisions of sections (3), (4), (8) or (11) of this rule or any other source of friable asbestos-containing waste material shall meet the following standards
- (a) There shall be no visible emissions to the outside air, except as provided in subsection (13)(c) of this section, during the collection; processing, including incineration; packaging; transporting; or deposition of any asbestos-containing waste material which is generated by such source.
  - (b) All asbestos-containing waste material shall be disposed of at a disposal site authorized by the Department. Records of disposal at an authorized landfill shall be maintained by the source for a minimum of three years and shall be made available upon request to the Department. For an asbestos abatement project conducted by a contractor licensed under OAR 340-33-040, the records shall be retained by the licensed contractor. For any other asbestos abatement project, the records shall be retained by the facility owner.

- (A) Persons intending to dispose of asbestos-containing waste material shall notify the landfill operator of the type and volume of the waste material and obtain the approval of the landfill operator prior to bringing the waste to the disposal site.
  - (B) All asbestos-containing waste material shall be wetted and stored and transported to the authorized disposal site in leak-tight containers such as two plastic bags each with a minimum of a thickness of 6 mil., or fiber or metal drums.
  - (C) The waste transporter shall immediately notify the landfill operator upon arrival of the waste at the disposal site. Off-loading of asbestos-containing waste material shall be done under the direction and supervision of the landfill operator.
  - (D) Off-loading of asbestos-containing waste material shall occur at the immediate location where the waste is to be buried. The waste burial site shall be selected in an area of minimal work activity that is not subject to future excavation.
  - (E) Off-loading of asbestos-containing waste material shall be accomplished in a manner that prevents the leak-tight transfer containers from rupturing and prevents visible emissions to the air.
  - (F) Asbestos-containing waste material deposited at a disposal site shall be covered with at least 2 feet of soil or 1 foot of soil plus 1 foot of other waste before compacting equipment runs over it but not later than the end of the operating day.
- (c) Rather than meet the requirements of this section, an owner or operator may elect to use an alternative disposal method which has received prior approval by the Department in writing.
- (d)(A) All asbestos-containing waste material shall be sealed into containers labeled with a warning label that states:

**DANGER**

Contains Asbestos Fibers  
Avoid Creating Dust  
Cancer and Lung Disease Hazard  
Avoid Breathing Airborne  
Asbestos Fibers

(B) Alternatively, warning labels specified by the U.S. Environmental Protection Agency under 40 CFR 61.152(b)(1)(iv) (3/10/86) may be used.

- (14) Any waste which contains nonfriable asbestos-containing material and which is not subject to subsection (13) of this rule shall be handled and disposed of using methods that will prevent the release of airborne asbestos-containing material.
- (15) Open storage or accumulation of friable asbestos material or asbestos-containing waste material is prohibited.

Editor's Note - This is a reprint of all sections and subsections of Oregon Administrative Rules Chapter 340, Division 25, which pertain to asbestos abatement. Deleted sections pertain to other asbestos and hazardous air pollutant sources.



OREGON ADMINISTRATIVE RULES  
LICENSING AND CERTIFICATION REQUIREMENTSASBESTOS REQUIREMENTS

## 340-33-010 AUTHORITY, PURPOSE, &amp; SCOPE

- (1) Authority. These rules are promulgated in accordance with and under the authority of ORS 468.893.
- (2) Purpose. The purpose of these rules is to provide reasonable standards for:
  - (a) training and licensing of asbestos abatement project contractors,
  - (b) training and certification of asbestos abatement project supervisors and workers,
  - (c) accreditation of providers of training of asbestos contractors, supervisors, and workers,
  - (d) administration and enforcement of these rules by the Department.
- (3) Scope
  - (a) OAR 340-33-000 through -100 is applicable to all work, including demolition, renovation, repair, construction, or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling, or disposal of any material which could potentially release asbestos fibers into the air; except as provided in (b) and (c) below.
  - (b) OAR 340-33-000 through -100 do not apply to an asbestos abatement project which is exempt from OAR 340-25-465(4).
  - (c) OAR 340-33-010 through -100 do not apply to persons performing vehicle brake and clutch maintenance or repair.
  - (d) Full-scale asbestos abatement projects are differentiated from smaller projects. Small-scale asbestos abatement projects as defined by OAR 340-33-020(17) are limited by job size and include projects,
    - (A) where the primary intent is to disturb the asbestos-containing material and prescribed work practices are used, and
    - (B) where the primary intent is not to disturb the asbestos-containing material.
  - (e) OAR 340-33-000 through -100 provide training, licensing, and certification standards for implementation of OAR 340-25-465, Emission Standards and Procedural Requirements for Asbestos.

340-33-020 DEFINITIONS

As used in these rules,

- (1) "Accredited" means a provider of asbestos abatement training courses is authorized by the Department to offer training courses that satisfy requirements for contractor licensing and worker training.
- (2) "Agent" means an individual who works on an asbestos abatement project for a contractor but is not an employe of the contractor.
- (3) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.
- (4) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or disposal of any asbestos-containing material with the potential of releasing asbestos fibers from asbestos containing material into the air.  
  
Note: Emergency fire fighting is not an asbestos abatement project.
- (5) "Asbestos-containing material" means any material containing more than one percent asbestos by weight, including particulate asbestos material.
- (6) "Certified" means a worker has met the Department's training, experience, and/or quality control requirements and has a current certification card.
- (7) "Contractor" means a person that undertakes for compensation an asbestos abatement project for another person. As used in this subsection, "compensation" means wages, salaries, commissions and any other form of remuneration paid to a person for personal services.
- (8) "Commission" means the Environmental Quality Commission.
- (9) "Department" means the Department of Environmental Quality.
- (10) "Director" means the Director of the Department of Environmental Quality.
- (11) "EPA" means the United States Environmental Protection Agency.
- (12) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.
- (13) "Friable asbestos material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry.

- (14) "Full-scale asbestos abatement project" means any removal, renovation, encapsulation, repair or maintenance of any asbestos-containing material which could potentially release asbestos fibers into the air, and which is not classified as a small-scale project as defined by (17) below.
- (15) "Licensed" means a contracting entity has met the Department's training, experience, and/or quality control requirements to offer and perform asbestos abatement projects and has a current asbestos abatement contractor license.
- (16) "Persons" means an individual, public or private corporation, nonprofit corporation, association, firm, partnership, joint venture, business trust, joint stock company, municipal corporation, political subdivision, the state and any agency of the state or any other entity, public or private, however organized.
- (17) "Small-scale asbestos abatement project" means small-scale, short-duration projects as defined by (18) below, and/or removal, renovation, encapsulation, repair, or maintenance procedures intended to prevent asbestos containing material from releasing fibers into the air and which:
- (a) Remove, encapsulate, repair or maintain less than 40 linear feet or 80 square feet of asbestos-containing material;
  - (b) Do not subdivide an otherwise full-scale asbestos abatement project into smaller sized units in order to avoid the requirements of these rules;
  - (c) Utilize all practical worker isolation techniques and other control measures; and
  - (d) Do not result in worker exposure to an airborne concentration of asbestos in excess of 0.1 fibers per cubic centimeter of air calculated as an eight (8) hour time weighted average.
- (18) "Small-scale, short-duration renovating and maintenance activity" means a task for which the removal of asbestos is not the primary objective of the job, including, but not limited to:
- (a) Removal of quantities of asbestos-containing insulation on pipes;
  - (b) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;
  - (c) Replacement of an asbestos-containing gasket on a valve;
  - (d) Installation or removal of a small section of drywall; or
  - (e) Installation of electrical conduits through or proximate to asbestos-containing materials.

Small-scale, short duration activities shall be limited to no more than 40 linear feet or 80 square feet of asbestos containing material. An asbestos abatement activity that would otherwise qualify as a full-scale abatement project shall not be subdivided into smaller units in order to avoid the requirements of these rules.

- (19) "Trained worker" means a person who has successfully completed specified training and can demonstrate knowledge of the health and safety aspects of working with asbestos.
- (20) "Worker" means an employe or agent of a contractor or facility owner or operator.

### 340-33-010(3) GENERAL PROVISIONS

- (1) Persons engaged in the removal, encapsulation, repair, or enclosure of any asbestos-containing material which has the potential of releasing asbestos fibers into the air must be licensed or certified, unless exempted by OAR 340-33-010(3).
- (2) An owner or operator of a facility shall not allow any persons other than those employees of the facility owner or operator who are appropriately certified or a licensed asbestos abatement contractor to perform an asbestos abatement project in or on that facility. Facility owners and operators are not required to be licensed to perform asbestos abatement projects in or on their own facilities.
- (3) Any contractor engaged in a full-scale asbestos abatement project must be licensed by the Department under the provisions of OAR 340-33-040.
- (4) Any person acting as the supervisor of any full-scale asbestos abatement project must be certified by the Department as a Supervisor for Full-Scale Asbestos Abatement under the provisions of OAR 340-33-050.
- (5) Any worker engaged in or working on any full-scale asbestos abatement project must be certified by the Department as a Worker for Full-Scale Asbestos Abatement under the provisions of OAR 340-33-050, or as a Supervisor for Full-Scale Asbestos Abatement.
- (6) Any contractor or worker engaged in any small-scale asbestos abatement project but not licensed or certified to perform full-scale asbestos abatement projects, must be licensed or certified by the Department as a Small-Scale Asbestos Abatement Contractor or a Worker for Small-Scale Asbestos Abatement, respectively under the provisions of OAR 340-33-040 and -050.
- (7) Any provider of training which is intended to satisfy the licensing and certification training requirements of these rules must be accredited by the Department under the provisions of OAR 340-33-060.

- (8) Any person licensed, certified, or accredited by the Department under the provisions of these rules shall comply with the appropriate provisions of OAR 340-25-465 and OAR 340-33-000 through -100 and maintain a current address on file with the Department, or be subject to suspension or revocation of license, or certification, or accreditation.
- (9) Asbestos abatement contractors and workers may perform asbestos abatement projects without a license or certificate until January 1, 1989. Thereafter, any contractor or worker engaged in an asbestos abatement project must be licensed or certified by the Department.
- (10) The Department may accept evidence of violations of these rules from representatives of other federal, state, or local agencies.
- (11) A regional air pollution authority which has been delegated authority under OAR 340-25-460(7) may inspect for and enforce against violations of licensing and certification regulations. A regional air pollution authority may not approve, deny, suspend or revoke a training provider accreditation, contractor license, or worker certification, but may refer violations to the Department and recommend denials, suspensions, or revocations.
- (12) An extension of time beyond January 1, 1989, for mandatory contractor licensing, supervisor certification or worker certification may be approved by the Commission if:
  - (a) Adequate accredited training as required for any of the categories of licensing or certification is not available in the State, and
  - (b) There is a public health or worker danger created due to inadequate numbers of appropriately licensed or certified persons to properly perform asbestos abatement activities.
- (13) Variances from these rules may be granted by the Commission under ORS 468.345.

#### 340-33-040 CONTRACTOR LICENSING

- (1) Contractors may be licensed to perform either of the following categories of asbestos abatement projects:
  - (a) Full-Scale Asbestos Abatement Contractors: All asbestos abatement projects, regardless of project size or duration, or
  - (b) Small-Scale Asbestos Abatement Contractor: Small-scale asbestos abatement projects.
- (2) Application for licenses shall be submitted on forms prescribed by the Department and shall be accompanied by:
  - (a) Documentation that the contractor, or contractor's employee representative, is certified at the appropriate level by the Department:

- (A) Full-scale Asbestos Abatement Contractor license: Certified Supervisor for Full-Scale Asbestos Abatement.
  - (B) Small-Scale Asbestos Abatement Contractor: Certified Worker for Small-Scale Asbestos Abatement.
- (b) Certification that the contractor has read and understands the applicable Oregon and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations.
  - (c) A list of all certificates or licenses, issued to the contractor by any other jurisdiction, that have been suspended or revoked during the past one (1) year, and a list of any asbestos-related enforcement actions taken against the contractor during the past one (1) year.
  - (d) List any additional project supervisors for full-scale projects and their certification numbers as Supervisors for Full-Scale Asbestos Abatement.
  - (e) Summary of asbestos abatement projects conducted by the contractor during the past 12 months.
  - (f) A license application fee.
- (3) The Department will review the application for completeness. If the application is incomplete, the Department shall notify the applicant in writing of the deficiencies.
  - (4) The Department shall deny, in writing, a license to a contractor who has not satisfied the license application requirements.
  - (5) The Department shall issue a license to the applicant after the license is approved.
  - (6) The Department shall grant a license for a period of 12 months. Licenses may be extended during Department review of a renewal application.
  - (7) Renewals:
    - (a) License renewals must be applied for in the same manner as is required for an initial license.
    - (b) For renewal, the contractor or employee representative must have completed at least the appropriate annual refresher course.
    - (c) The complete renewal application shall be submitted no later than 60 days prior to the expiration date.
  - (8) The Department may suspend or revoke a license if the licensee:
    - (a) Fraudulently obtains or attempts to obtain a license.

- (b) Fails at any time to satisfy the qualifications for a license or comply with the rules adopted by the Commission.
  - (c) Fails to meet any applicable state or federal standard relating to asbestos abatement.
  - (d) Permits an untrained or uncertified worker to work on an asbestos abatement project.
  - (e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement.
- (9) A contractor who has a license revoked may reapply for a license after demonstrating to the Department that the cause of the revocation has been resolved.

### 340-33-050 CERTIFICATION

- (1) Workers on asbestos abatement projects shall be certified at one or more of the following levels:
  - (a) Certified Supervisor for Full-Scale Asbestos Abatement.
  - (b) Certified Worker for Full-Scale Asbestos Abatement.
  - (c) Certified Worker for Small-Scale Asbestos Abatement.
- (2) Application for Certification-General Requirements.
  - (a) Applications shall be submitted to the provider of the accredited training course within thirty (30) days of completion of the course.
  - (b) Applications shall be submitted on forms prescribed by the Department and shall be accompanied by the certification fee.
- (3) Application to be a Certified Supervisor for Full-Scale Asbestos Abatement shall include:
  - (a) Documentation that the applicant has successfully completed the Supervisor for Full-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document, and
  - (b) Documentation that the applicant has been certified as a Worker for Full-Scale Asbestos Abatement and has at least 3 months of full-scale asbestos abatement experience, including time on powered air purifying respirators and experience on at least five separate asbestos abatement projects. The Department shall have the authority to determine if any applicant's experience satisfies those requirements. Applications for licenses submitted prior to January 1, 1989 shall not be required to include documentation of certification as a worker.

- (4) Application to be a Certified Worker for Asbestos Abatement shall include:
  - (a) Documentation that the applicant to be a Certified Worker for Full-Scale Asbestos Abatement has successfully completed the Worker for Full-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document.
  - (b) Documentation that the applicant to be a Certified Worker for Small-Scale Asbestos Abatement has successfully completed the Worker for Small-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document.
- (5) Training course providers shall issue certification to an applicant who has fulfilled the requirements of certification.
- (6) Certification at all levels is valid for a period of twenty-four (24) months after the date of issue.
- (7) Renewals
  - (a) Certification renewals must be applied for in the same manner as application for original certification.
  - (b) To gain renewal of certification, a Worker for Full-Scale Asbestos Abatement and a Supervisor for Full-Scale Asbestos Abatement must complete the appropriate annual refresher course no sooner than nine (9) months and no later than twelve (12) months after the issuance date of the certificate, and again no sooner than three (3) months prior to the expiration date of the certificate. A worker may apply in writing to the Department for taking refresher training at some other time than as specified by this paragraph for reasons of work requirements or hardship. The Department shall accept or reject the application in writing.
  - (c) To gain renewal of certification, a Worker for Small-Scale Asbestos Abatement must comply with the regulations on refresher training which are in effect at the time of renewal. Completion of an accredited asbestos abatement review class may be required if the Environmental Quality Commission determines that there is a need to update the workers' training in order to meet new or changed conditions.
- (8) The Department may suspend or revoke a worker's certificate for failure to comply with any state or federal asbestos abatement rule or regulation.
- (9) If a certification is revoked, the worker may reapply for another initial certification only after twelve (12) months from the revocation date.
- (10) A current worker certification card shall be available for inspection at each asbestos abatement project site for each worker conducting asbestos abatement activities on the site..



340-33-060 TRAINING PROVIDER ACCREDITATION

(1) General

- (a) Asbestos training courses required for licensing or certification under these rules may be provided by any person.
- (b) Any training provider offering training in Oregon to satisfy these certification and licensing requirements must be accredited by the Department.
- (c) Each of the different training courses which are to be used to fulfill training requirements shall be individually accredited by the Department.
- (d) The training provider must satisfactorily demonstrate through application and submission of course agenda, faculty resumes, training manuals, examination materials, equipment inventory, and performance during on-site course audits by Department representatives that the provider meets the minimum requirements established by the Department.
- (e) The training course sponsor shall limit each class to a maximum of thirty participants unless granted an exception in writing by the Department. The student to instructor ratio for hands-on training shall be equal to or less than ten to one (10:1). To apply for an exception allowing class size to exceed thirty, the course sponsor must submit the following information in writing to the Department for evaluation and approval prior to expanding the class size.
  - (A) The new class size limit,
  - (B) The teaching methods and techniques for training the proposed larger class,
  - (C) The protocol for conducting the written examination, and
  - (D) Justification for a larger class size.
- (f) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.
- (g) The Department may require any accredited training provider to use examinations developed by the Department in lieu of the examinations offered by the training provider.
- (h) Training providers seeking accreditation for courses conducted since January 1, 1987, may apply for accreditation of those course offerings as though they were applying for initial accreditation. Contractors and workers trained by these providers since January 1, 1987 may be eligible to use this prior training as satisfaction of the initial training required by these licensing and certification rules.

- (i) The Department may require accredited training providers to pay a fee equivalent to reasonable travel expenses for one Department representative to audit any accredited course which is not offered in the State of Oregon for compliance with these regulations. This condition shall be an addition to the standard accreditation application fee.

(2) Application for Accreditation.

- (a) Application for accreditation shall be submitted to the Department in writing on forms provided by the Department and attachments. Such applications shall, as a minimum, contain the following information:
  - (A) Name, address, telephone number of the firm, individual(s), or sponsors conducting the course, including the name under which the training provider intends to conduct the training.
  - (B) The type of course(s) for which approval is requested.
  - (C) A detailed course outline showing topics covered and the amount of time given to each topic, including the hands-on skill training.
  - (D) A copy of the course manual, including all printed material to be distributed in the course.
  - (E) A description of teaching methods to be employed, including description of audio-visual materials to be used. The Department may, at its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the Department will be returned to the applicant.
  - (F) A description of the hands-on facility to be utilized including protocol for instruction, number of students to be accommodated, the number of instructors, and the amount of time for hands-on skill training.
  - (G) A description of the equipment that will be used during both classroom lectures and hands-on training.
  - (H) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualification of each, as well as the subject matter covered by each.
  - (I) A copy of each written examination to be given including the scoring methodology to be used in grading the examination; and a detailed statement about the development and validation of the examination.
  - (J) A list of the tuition or other fees required.
  - (K) A sample of the certificate of completion and certification card label.

- (L) A description of the procedures and policies for re-examination of students who do not successfully complete the training course examination.
  - (M) A list of any states or accrediting systems that approve the training course.
  - (N) A description of student evaluation methods (other than written examination to be used) associated with the hands-on skill training, as applicable.
  - (O) A description of course evaluation methods used by students.
  - (P) Any restriction on attendance such as class size, language, affiliation, and/or target audience of class.
  - (Q) A description of the procedure for issuing replacement certification cards to workers who were issued a certification card or certification card label by the training provider within the previous 12 months and whose cards have been lost or destroyed.
  - (R) Any additional information or documentation as may be required by the Department to evaluate the adequacy of the application.
  - (S) Accreditation application fee.
- (b) Application for initial training course accreditation and course materials shall be submitted to the Department at least 45 days prior to the requested approval date.
  - (c) Upon approval of an initial or refresher asbestos training course, the Department will issue a certificate of accreditation. The certificate is valid for one year from the date of issuance.
  - (d) Application for renewal of accreditation must follow the procedures described for the initial accreditation. In addition, course instructors must demonstrate that they have maintained proficiency in their instructional specialty and adult training methods during the twelve (12) months prior to renewal.
- (3) Denial, Suspension or Revocation of Certificate of Accreditation. The Director may deny, revoke or suspend an application or current accreditation upon finding of sufficient cause. Applicants and certificate holders shall also be advised of the duration of suspension or revocation and any conditions that must be met before certificate reinstatement. Applicants shall have the right to appeal the Director's determination through an administrative hearing in accordance with the provisions of OAR Chapter 340 Division 11. The following may be considered grounds for denial, revocation or suspension:

- (a) False statements in the application, omission of required documentation or the omission of information.
  - (b) Failure to provide or maintain the standards of training required by these regulations.
  - (c) Failure to provide minimum instruction required by these regulations.
  - (d) Failure to report to the Department any change in staff or program which substantially deviates from the information contained in the application.
  - (e) Failure to comply with the administrative tasks and any other requirement of these regulations.
- (4) Training Provider Administrative Tasks. Accredited training providers shall perform the following as a condition of accreditation:
- (a) Administer the training course examination only to those students who successfully complete the training course.
  - (b) Issue a numbered certificate to each students who successfully passes the training course examination. Each certificate shall include the name of the student, name of the course completed, the dates of the course and the examination, name of the training provider, a unique certificate number, and a statement that the student passed the examination.
  - (c) Issue a photo identification card to each student seeking initial or renewal certification who successfully completes the training course examination and meets all other requirements for certification. The photo identification card shall meet the Department specifications.
  - (d) Place a label on the back of the photo identification card of each student who successfully completes a refresher training course and examination as required to maintain certification. The label shall meet Department specifications.
  - (e) Provide to the Department within ten (10) calendar days of the conclusion of each course offering the name, address, telephone number, Social Security Number, course title and dates given, attendance record, exam scores, and course evaluation form of each student attending the course and the certification number, certification fee, and a photograph for each student certified. Record of the information shall be retained by the training provider for a period of three (3) years.
  - (f) Obtain advance approval from the Department for any changes in the course instructional staff, content, training aids used, facility utilized or other matters which would alter the instruction from that described in the approval application.

- (e) Utilize and distribute as part of the course information or training aides furnished by the Department.
- (f) Notify the Department in writing at least one week before a training course is scheduled to begin. The notification must include the date, time and address where the training will be conducted.
- (g) Establish and maintain course records and documents relating to course accreditation application. Accredited training providers shall make records and documents available to the Department upon request. Training providers whose principle place of business is outside of the State of Oregon shall provide a copy of such records or documents within ten (10) business days of receipt of such a written request from the Department.
- (h) Notify the Department prior to issuing a replacement certification card.
- (i) Accredited training providers must have their current accreditation certificates at the location where they are conducting training.

#### 340-33-070 GENERAL TRAINING STANDARDS

- (1) Courses of instruction required for certification shall be specific for each of the certificate categories and shall be in accordance with Department guidelines. The topics or subjects of instruction which a person must receive to meet the training requirements must be presented through a combination of lectures, demonstrations, and hands-on practice.
- (2) Courses requiring hands-on training must be presented in an environment suitable to permit participants to have actual experience performing tasks associated with asbestos abatement. Demonstrations not involving individual participation shall not substitute for hands-on training.
- (3) Persons seeking certification as a Supervisor for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least four days as outlined in the DEQ Asbestos Training Guidance Document. The training course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and a written examination consisting of multiple choice questions. Successful completion of the training shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in the hands-on training.
- (4) Any person seeking certification as a Worker for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least three days duration as outlined in the DEQ Asbestos Training Guidance Document. The training course shall include lectures, demonstrations, at least six hours of actual hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation

in the hands-on training. The course shall adequately address the following topics:

- (5) Any person seeking certification as a Worker for Small-Scale Asbestos Abatement shall complete at least a two day approved training course as outlined in the DEQ Asbestos Training Guidance Document. The small-scale asbestos abatement worker course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in the hands-on training.
- (6) Refresher training shall be at least one day duration for Certified Supervisors and Workers for Full-Scale Asbestos Abatement and at least three hours duration for Certified Workers for Small-Scale Asbestos Abatement. The refresher courses shall include a review of key areas of initial training, updates, and an examination of multiple choice questions as outlined in the DEQ Asbestos Training Guidance Document. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in any hands-on training.
- (7) One training day shall consist of at least seven hours, of actual classroom instruction and hands-on practice.

#### 340-33-080 PRIOR TRAINING

Successful completion of an initial training course not accredited by the Department may be used to satisfy the training and examination requirements of OAR 340-33-050 and OAR 340-33-060 provided that all of the following conditions are met.

- (1) The Department determines that the course and examination requirements are equivalent to or exceed the requirements of OAR 340-33-050 and 340-33-060 and the asbestos training guidance document, for the level of certification sought. State and local requirements may vary.
- (2) If the training was completed prior to January 1, 1987, the applicant must demonstrate to the Department that additional experience sufficient to maintain knowledge and skills in asbestos abatement has been obtained in the interim.
- (3) The applicant who has received recognition from the Department for alternate initial training successfully completes an Oregon accredited refresher course and refresher course examination for the level of certification sought.

#### 340-33-090 RECIPROCITY

The Department may develop agreements with other jurisdictions for the purposes of establishing reciprocity in training, licensing, and/or certification if the Department finds that the training, licensing and/or certification standards of the other jurisdiction are at least as stringent as those required by these rules.

340-33-100 FEES

- (1) Fees shall be assessed to provide revenues to operate the asbestos control program. Fees are assessed for the following:
  - (a) Contractor Licenses
  - (b) Worker Certifications
  - (c) Training Provider Accreditation
  - (d) Asbestos Abatement Project Notifications
  
- (2) Contractors shall pay a non-refundable license application fee of:
  - (a) Three hundred dollars (\$300) for a one year Full-Scale Asbestos Abatement Contractor license.
  - (b) Two hundred dollars (\$200) for a one year Small-Scale Asbestos Abatement Contractor license.
  
- (3) Workers shall pay a non-refundable certification fee of:
  - (a) One hundred dollars (\$100) for a two year certification as a certified Supervisor for Full-Scale Asbestos Abatement.
  - (b) Eighty dollars (\$80) for a two year certification as a Certified Worker for Full-Scale Asbestos Abatement.
  - (c) Fifty dollars (\$50) for a two year certification as a Certified Worker for Small-Scale Asbestos Abatement.
  
- (4) Training Providers shall pay a non-refundable accreditation application fee of:
  - (a) One thousand dollars (\$1000) for a one year accreditation to provide a course for training supervisors on Full-Scale projects.
  - (b) Eight hundred dollars (\$800) for a one year accreditation to provide a course for training workers on Full-Scale projects.
  - (c) Five hundred dollars (\$500) for a one year accreditation to provide a course for training workers on Small-Scale projects.
  - (d) Two hundred and fifty dollars (\$250) for a one year accreditation to provide a course for refresher training for any level of certification.
  
- (5) Requests for waiver of fees shall be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

Note: The requirements and jurisdiction of the Department of Insurance and Finance, Accident Prevention Division and any other state agency are not affected by these rules.

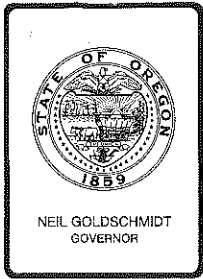
(Adopted May 17, 1987; effective January 1, 1989)



ATTACHMENT F

ASBESTOS ABATEMENT FEE SCHEDULE

	<u>Full-Scale</u> <u>Supervisor</u>	<u>Worker</u>	<u>Small-Scale</u>
1. Training Course Accreditation - Annual fee paid only by training provider	\$1000	\$800	\$500
2. Contractor License - Annual fee paid by contractor		300	200
3. Worker Certification - Biennial fee paid by worker or employer	100	80	50
<hr/>			
4. Project Notification Fees - Effective June 1, 1988			
a. by project size			
			\$25 - small-scale project
			\$50 - full-scale, but less than 260 linear feet or 160 square feet of asbestos abated
			\$200 - full-scale, from 260 to 2600 linear feet or 160 to 1600 square feet
			\$500 - full-scale, over 2600 linear feet or 1600 square feet
			< or >
b. residential			No Fee
c. Monthly notification of small-scale projects by an authorized contractor			\$25
d. Annual notification of operations and maintenance operations at an authorized facility			\$200



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

WORK SESSION  
REQUEST FOR EQC DISCUSSION

Meeting Date: June 1, 1989

Agenda Item: 3

Division: Air Quality

Section: Program Planning

**SUBJECT:**

Issues Related to the Proposed Adoption of New Industrial Rules for PM<sub>10</sub> Emission Control within the Klamath Falls Urban Growth Boundary.

**PURPOSE:**

Response to Commission concerns regarding the Department's authority and the feasibility of obtaining residential wood stove emission offsets and development of criteria to define emission offset credits.

**ACTION REQUESTED:**

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item      for Current Meeting
  - Other: Response to Commission Request
  
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment
  - Rulemaking Statements Attachment
  - Fiscal and Economic Impact Statement Attachment
  - Public Notice Attachment
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment
- Approve Department Recommendation
  - Variance Request Attachment
  - Exception to Rule Attachment
  - Informational Report Attachment
  - Other: (specify) Attachment

Meeting Date: June 1, 1989  
Agenda Item: 3  
Page 2

**DESCRIPTION OF REQUESTED ACTION:**

Commission discussion and resolution of issues related to the use of woodstove emissions as external industrial offsets.

**AUTHORITY/NEED FOR ACTION:**

<input type="checkbox"/> Required by Statute: _____	Attachment _____
Enactment Date: _____	
<input type="checkbox"/> Statutory Authority: _____	Attachment _____
<input type="checkbox"/> Pursuant to Rule: _____	Attachment _____
<input type="checkbox"/> Pursuant to Federal Law/Rule: _____	Attachment _____
<input type="checkbox"/> Other: Rule Amendment	Attachment _____

Time Constraints:

Timely resolution of the issues is important to at least one industry with a pending permit application. Resolution is also important to the scope of the PM<sub>10</sub> attainment/maintenance strategy for the Klamath Falls area scheduled for hearing authorization in September.

**DEVELOPMENTAL BACKGROUND:**

<input type="checkbox"/> Advisory Committee Report/Recommendation	Attachment _____
<input type="checkbox"/> Hearing Officer's Report	Attachment _____
<input type="checkbox"/> Response to Testimony/Comments	Attachment _____
<input checked="" type="checkbox"/> Prior EQC Agenda Items: Item I, April 14, 1989	Attachment <u>A</u>
<input checked="" type="checkbox"/> Other Related Reports/Rules/Statutes:	Attachment <u>B</u>
<input type="checkbox"/> Supplemental Background Information	Attachment _____

At the April 14, 1989 EQC meeting (Agenda Item I), the Department proposed adoption of new industrial emission offset rules for the Klamath Falls nonattainment area which would lower the PM<sub>10</sub> offset requirement from 15 to 5 tons per year. Following consideration of the issues, the Commission decided to defer action on the proposed rule pending resolution of three issues related to the use of woodstoves as external industrial emission offsets. The Commission asked that these issues be scheduled for discussion at the June 1, 1989 work session.

**REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:**

Resolution of the woodstove external emission offset issues is needed prior to the Commission's action on the proposed Klamath Falls Industrial offset rule.

PROGRAM CONSIDERATIONS:

The three issues requiring Commission discussion and resolution are:

**Issue 1: The Department's authority to allow residential woodstove emission reductions as external offsets for industrial sources.**

Federal and state rules require that offsets be enforceable and permanent. Under current statutes, the Department is prohibited from regulating residential heating systems except for the purpose of regulating the sale of new wood stoves through a certification program. Generally, industries negotiate external offsets directly. Under these programs, industrial sources can work directly with low income homeowners that heat their homes with wood to replace their woodstoves with a non-wood space heating system. The industry would negotiate the amount of compensation directly with the homeowner. To insure that the emission offsets are permanent and enforceable, a restrictive covenant on the property's title could be requested by the industry. The covenant would prohibit future installation of a woodstove in the home. Proof of the destruction of the woodstove removed from the home should also be required. Similar title restrictions and proof of stove destruction have been required by the Jackson County Housing Authority in their administration of a low income woodstove conversion program in the Medford area.

The Department could then require, as a condition of the industry's Air Contaminant Discharge Permit, that the industry pursue legal action to enforce the title covenants or face corresponding reduction of their permitted emission increase. In the event that an audit should determine that the offsets were not permanently in place, the Department could modify the industry's permit to lower the Plant Site Emission Level by a corresponding amount. This indirect approach of assuring the enforceability and permanency of woodstove offsets would not conflict with current statute restrictions.

Both the Attorney General's Office and the U.S. Environmental Protection Agency Region X indicate that the approach described above is feasible and that no additional Department authority would be needed to allow woodstoves emission to be used as a source of industrial emission offset.

Meeting Date: June 1, 1989  
Agenda Item: 3  
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**Issue 2: The feasibility of obtaining residential woodstove emission offsets in Klamath Falls.**

Based on the experience and success of the Jackson County Housing Authority's CLEAR Project, Klamath Falls industries should be able to obtain offset commitment from woodheating households.

The Cooperative Local Effort for Air Resource (CLEAR) program in the Medford area assists low income families who depend on wood heat for their homes. Currently, families with annual incomes below 80 percent of the local median income may apply to have their woodstove removed and replaced with an electric, gas or pellet space heating system. The program has a cap of \$2,000 for the installed heating plant expense. Each participating homeowner has a title covenant recorded in the county records which prohibits future installation of a cord wood heating device at that address. The CLEAR project is funded through a Housing and Urban Development (HUD) grant that will be expanded with Oil Settlement Funds that have recently been approved by a subcommittee of the Ways and Means Committee. These funds then need to be approved by the Legislature as part of DEQ's budget.

Since startup of the CLEAR project in August, 1988 about 100 applications have been received...principally from older people who can no longer heat with wood because of the effort needed to cut, split and handle cord wood. The CLEAR project was intentionally not widely advertised because of limited staff resources to process the applications. If, in the opinion of the Housing Authority, an effort had been made to aggressively market the program far more applications would have been received than could have been processed. Applications now being received are processed in about two weeks with installation of the replacement heating system within one month. Woodstoves removed from the homes are cut up and sold as scrap metal.

While project CLEAR was not established as an industrial offset program, it does demonstrate that if funding is available, a significant number of wood heating households will be willing to participate in a heating plant replacement program. Judging by the number of participants in the CLEAR project and considering that the population served by the present program is similar to that of Klamath Falls, there should be more than enough willing homeowners in the Klamath Falls area to provide several permit applicants with external offsets. About 84 woodstoves must be removed to provide a 15 tons/year PM<sub>10</sub> offset. There are about 630 low income sole source woodheating households within the Klamath Falls Urban Growth Boundary.

Department rules require that offsets be in place before industrial emission increases can occur. There also must be a net air quality benefit from the offsets for both annual average and 24-hour periods that exceed the PM<sub>10</sub> air quality standards. These requirements could be met by sources like Jeld-Wen which need an immediate increase in industrial emissions as long as woodstove offsets are in place by the first of November when daily violations of PM<sub>10</sub> standards begin because of increased wood space heating. From experience with the CLEAR project, there would be enough time for Jeld-Wen to meet these requirements.

**Issue 3: The need to develop formal criteria defining external emission offset programs.**

Federal and state rules require that offsets be quantifiable, permanent and enforceable. The Department is not aware of any other air quality agency that has adopted offset specific criteria to specify how these requirements will be met. This is because there are numerous ways of meeting these general rule requirements. To assist industries that may wish to establish a residential woodstove external emission offset program, the Department has prepared guidelines describing program criteria necessary to meet basic State of Oregon and EPA rule requirements (Attachment B). The above guidelines could be put in rule form, however, it is not necessary according to EPA and the Attorney General's Office. Incorporation of the guidance into rules would delay use of woodstove offsets and could unnecessarily limit the specific ways in which general offset rule requirement could be met.

**ALTERNATIVES CONSIDERED BY THE DEPARTMENT:**

In lieu of administering the emission offset program themselves, Klamath Falls industrial sources may wish to request Klamath County's assistance in managing the funds. In either case, the criteria and procedures developed by the Jackson County Housing Authority would be helpful in establishing the Klamath Falls program in the shortest possible time that would meet offset rule requirements.

**DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:**

No significant statutory, administrative or technical issues have been identified with respect to immediately using woodstove emissions as offsets. The Department therefore recommends that the Commission proceed with considering adoption of the revised Klamath Falls Industrial Offset rule.

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Agenda Item: 3  
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CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE  
POLICY:

Not Applicable

ISSUES FOR COMMISSION TO RESOLVE:

Not Applicable

INTENDED FOLLOWUP ACTIONS:

Commission reconsideration of the Klamath Falls Industrial  
Offset rule.

Approved:

Section:

*John Kowalczuk*

Division:

*Wild Ditch*

Director:

*Rydia Taylor*

Report Prepared By: John E. Core

Phone: 229-5380

Date Prepared: May 4, 1989

JEC:k  
PLAN\AK1788  
May 4, 1989



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: April 14, 1989

Agenda Item: I

Division: Air Quality

Section: Program Planning

#### SUBJECT:

Proposed Adoption of New Industrial Rules for PM<sub>10</sub> Emission Control within the Klamath Falls Urban Growth Boundary (OAR 340 Division 20) which lowers the Emission Offset Requirement For New or Modified Sources from 15 to 5 Tons Per Year.

#### PURPOSE:

To assure that industrial emission increases in Klamath Falls do not interfere with control strategies designed to attain and maintain compliance with the new federal PM<sub>10</sub> air quality standards.

#### ACTION REQUESTED:

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item  for Current Meeting
  - Other: (specify)
  
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment A
  - Rulemaking Statements Attachment B
  - Fiscal and Economic Impact Statement Attachment B
  - Public Notice Attachment C
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment
- Approve Department Recommendation
  - Variance Request Attachment
  - Exception to Rule Attachment
  - Informational Report Attachment
  - Other: (specify) Attachment

#### DESCRIPTION OF REQUESTED ACTION:



Meeting Date: April 14, 1989  
Agenda Item:  
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DESCRIPTION OF REQUESTED ACTION:

The proposed rule would:

Reduce the Significant Emission Rate that triggers emission offset requirements from 15 to 5 tons per year.

Apply retroactively to all new or modified sources within the Klamath Falls Urban Growth Boundary for which permits have not been issued prior to April 29, 1988.

Delete the provision contained in the originally proposed rule requiring application of Lowest Achievable Control Technology (LAER) at the 5 ton per year offset level. Retain the LAER requirement at the existing 15 ton per year offset level.

Designate the Klamath Falls Urban Growth Boundary as the PM<sub>10</sub> Nonattainment Area.

AUTHORITY/NEED FOR ACTION:

<input type="checkbox"/> Required by Statute: _____	Attachment _____
Enactment Date: _____	
<input type="checkbox"/> Statutory Authority: _____	Attachment _____
<input type="checkbox"/> Pursuant to Rule: _____	Attachment _____
<input type="checkbox"/> Pursuant to Federal Law/Rule: _____	Attachment _____
<input checked="" type="checkbox"/> Other: Rule Amendment (OAR 340 Division 20)	Attachment <u>A</u>

Time Constraints: The Environmental Protection Agency, under the provisions of the Clean Air Act, has required the Department to adopt State Implementation Plan (SIP) revisions for the Klamath Falls PM<sub>10</sub> Nonattainment Area. The proposed rule is a key element of the Klamath Falls control strategy. The projected date for Commission authorization of public hearings on the SIP is July, 1989. Timely resolution of the rule is also important to at least one industry with a pending permit application.

DEVELOPMENTAL BACKGROUND:

<input type="checkbox"/> Advisory Committee Report/Recommendation	Attachment _____
<input checked="" type="checkbox"/> Hearing Officer's Report	Attachment <u>D</u>
<input checked="" type="checkbox"/> Response to Testimony/Comments	Attachment <u>E</u>
<input type="checkbox"/> Prior EQC Agenda Items: (list)	Attachment _____
<input type="checkbox"/> Other Related Reports/Rules/Statutes:	Attachment _____
<input type="checkbox"/> Supplemental Background Information	Attachment _____

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Klamath Falls has a serious PM<sub>10</sub> air quality problem. Reductions of as much as 90% and 60 %, respectively, are needed in woodsmoke and fugitive dust emissions to attain federal 24-hour air quality standards. Additional reductions may be needed to achieve the annual standard. Because of the difficulty in achieving such high levels of control, every reasonable emission reduction strategy may need to be set in place to achieve healthful air quality. As the control strategies reduce woodsmoke and dust emissions to meet the PM<sub>10</sub> air quality standard, industrial contributions will increase from 4 to 20 % of worst-case day PM<sub>10</sub> levels. Addition of 15 tons per year of industrial emissions from a number of new or modified source would result in about a 1 µg/m<sup>3</sup> airshed impact for each industry if emission offsets are not required. These additional impacts will significantly interfere with efforts to attain and maintain compliance with PM<sub>10</sub> air quality standards. Rule adoption is being requested now to resolve the issue for industries with pending permits and for new sources considering locating in the airshed.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

Testimony in support of the rule emphasized the need for restrictions on industrial emission increases within an airshed that exceeds the national health standard for PM<sub>10</sub> by a factor of four. Others cited the need for equitable reductions in industrial as well as residential wood heating emissions and the need for consistent offset requirements for sources in Klamath Falls and Medford.

Those opposed cited the high cost to industry relative to air quality benefits and impacts on local economic development.

A summary of key points of controversy follows. The comments and Department's detailed response are contained in Appendix E.

1. Industry emissions and impacts are a small percentage of the PM<sub>10</sub> problem. Rule adoption would result in little air quality improvement.

The Department believes that industrial emission will be a significant portion of the airshed emissions when woodstove emissions are reduced and that significant growth in industrial emissions may jeopardize efforts to achieve and maintain healthful air quality (Page E-1).

2. The economic impacts on industry and the community are significantly underestimated.

The Department's estimated costs to obtain offsetting emissions are accurate and offsets are cost-effective but further analysis convinces the Department that LAER controls are not cost-effective (Page E-1).

3. Available emission offsets are so few that the rule would prohibit industrial growth.

The Department estimates that sufficient offsets are available to accommodate several new or expanded industrial sources. Replacement of woodstoves in low income, sole-source homes is the most likely source of external offsets (Page E-3).

4. Local voluntary solutions to industrial emission growth management are needed rather than state imposed rules.

The SIP must contain effective and enforceable measures to address growth in industrial emissions. In the absence of local ordinances, the Department bears responsibility for adopting an industrial emission growth management strategy (Page E-4).

5. The Urban Growth Boundary should not be adopted as the nonattainment area.

The boundary within which the control strategies apply must incorporate the area which currently exceeds or in the future may exceed air standards. It must also be a legally defined boundary for which population, housing and transportation growth forecasts are prepared. The Department believes that the Urban Growth Boundary best meets these criteria (Page E-5).

6. The rule should not be retroactive.

Because of the very high degree of emission reduction required to attain air quality standards in Klamath Falls, every reasonable measure must be taken to manage industrial

Meeting Date: April 14, 1989  
Agenda Item:  
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emission growth. The Department believes that the rule should be retroactive to insure that proposed industrial expansions do not interfere with attainment and maintenance of air quality standards if and when permits are issued. The rule also insures that efforts to gain public cooperation in reducing woodstove emissions are not undermined by public perception of inequities in allocating woodstove emission reduction gains to industry (Page E-6).

PROGRAM CONSIDERATIONS:

There will be some impact on the agency's budget associated with management of the emission offset program. There will be no impacts on other approvals required, or change in relationships with other agencies if the Commission were to adopt this rule. The Commission's action on this rule may affect Agenda Item P (Discharge of Additional Wastewater into a Lake Requiring Commission Approval) in the event that Jeld-Wen, Inc. decides to withdraw it's pending Air Contaminant Discharge Permit. The Department has committed considerable resources in seeking solutions to Klamath Falls' air quality problem. Adoption of the rule represents an important step in seeking solutions to this problem.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

In developing the alternatives, two issues were considered:

- (1) Do industrial emission increases need to be managed to insure attainment of air quality standards ?;
- (2) Should industrial emission increases be addressed at the time of adoption of the Klamath Falls State Implementation Plan or is action needed now ?

The Department believes that industrial emission growth allowed under the current 15 ton offset rule would significantly interfere with efforts to attain air quality standards. It is also the Department's opinion that timely action is needed to assure that emission increases from new and modified industrial sources now being planned are covered by the rule. Three options have been developed:

1. Retain current requirements for LAER control and offsets on industrial emission growth at 15 tons per year or greater emission increases.

This option represents no change from the current rules. It would allow each new industry within the UGB or modifications to existing industry to increase emissions by up to 15 tons per year per facility without offsets or LAER control, adding the equivalent in PM<sub>10</sub> emissions of 84 sole-source woodheating households to the airshed each time. This is equivalent to about 1  $\mu\text{g}/\text{m}^3$  daily impact increase. Such additional impacts on the airshed would significantly interfere with efforts to attain and maintain compliance with air quality standards. The equity of requiring up to a 90 % reduction in woodstove emissions while allowing significant increases in industrial emissions is of great concern to the Department.

2. Revision of the requirements for LAER control and offsets from 15 to 5 tons per year, applied retroactively to all new or modified sources within the Klamath Falls UGB for which permits have not been issued prior to April 29, 1988.

This option was brought before the Commission for public hearing authorization on November 4, 1988 (Agenda Item H). In initially proposing the rule before the Commission, the Department felt that stringent and consistent industrial control and offset rules should be adopted in Klamath Falls (as they have been for the Medford Nonattainment Area) because of the severe PM<sub>10</sub> air quality problems in the airshed. Also, the rule needs to be retroactive to mitigate emission increases in pending industrial permit applications.

3. Retain the current 15 ton per year requirement for LAER but for new or modified sources greater than 5 but less than 15 tons per year require either (a) emission offsets or (b) LAER control technology. The rule would apply retroactive to sources for which permits have not been issued prior to April 29, 1988.

After consideration of public comment, the Department concurs that application of LAER technology is probably not cost effective for Klamath Falls industrial sources because of their smaller size relative to those in Medford. The Department believes that the 5 ton per year emission offset requirement should be adopted because it is a cost-effective approach to managing industrial

emission growth. Industries that would be affected by the retroactive element of the rule would have the option of applying LAER technology (only) in lieu of offsets. Since emissions from low income, sole source woodheating households is the least costly source of offsets, industrial emissions will likely be offset by reductions in woodstove smoke from sources in the heart of the nonattainment area.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends adoption of Alternative 3.

This alternative provides for industrial emission growth management in a cost-effective manner through offsets. Most likely these offsets would come from replacement of woodstoves in low income, sole source woodheating households. Because woodheating emission reductions will be concentrated in the space heating season within the heart of the nonattainment area, a greater net air quality benefit as required by Department rule will result. The cost of offsets (about \$168,000 for 15 tons per year) to industry is much less than including LAER technology control equipment (\$350,000 per 15 tons per year minimum in capital equipment alone).

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The proposed rule is consistent with the Department's proposed strategy for controlling industrial PM<sub>10</sub> emissions in the Medford-Ashland, Grants Pass and Klamath Falls nonattainment areas as part of the State Implementation Plan for attaining and maintaining the National Ambient Air Quality Standards for particulate matter. The Department is not aware of conflicts involving this proposed rule with any agency or legislative policies.

ISSUES FOR COMMISSION TO RESOLVE:

1. Does the Commission support a tighter industrial PM<sub>10</sub> emission growth strategy for the Klamath Falls airshed? Should the rule be retroactive? Should the rule be adopted now or later as part of the overall control strategy?
2. Does the Commission concur that offsets are a cost-effective approach to managing industrial emission growth greater than 5 tons per year?

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3. Does the Commission concur that LAER control technology is not cost-effective for smaller industrial sources and that emission increases of less than 15 tons per year within the Klamath Falls Urban Growth Boundary should not require LAER controls ?
4. Should the Urban Growth Boundary be adopted as the nonattainment area ?

INTENDED FOLLOWUP ACTIONS:

- A. File adopted rules with the Secretary of State and incorporate into the Klamath Falls PM<sub>10</sub> Nonattainment Area State Implementation Plan.

Approved:

Section: John Kenneth

Division: Wild

Director: Rydia Taylor  
for Fred Hansen

Report Prepared By: John E. Core  
Phone: 229-5380  
Date Prepared: March 24, 1989

JC:k  
PLANAK1501  
March 28, 1989

Attachment A

PROPOSED RULE REVISIONS

Definitions

OAR 340-20-225(22) Table 1:

Note: \* For the nonattainment portions of the Medford-Ashland Air Quality Maintenance Area and the Klamath Falls Urban Growth Area, the Significant Emission Rates for particulate matter and volatile organic compounds are defined in Table 2.

OAR 340-20-225(22) Table 2:

Significant Emission Rates for the Nonattainment Portions of the Medford-Ashland Air Quality Maintenance Area and the Klamath Falls Urban Growth Area.

<u>Air Contaminant</u>	<u>Emission Rate</u>					
	<u>Annual</u>		<u>Day</u>		<u>Hour</u>	
	<u>Kilograms</u>	<u>(tons)</u>	<u>Kilograms</u>	<u>(lbs)</u>	<u>Kilograms</u>	<u>(lbs)</u>
Particulate Matter** (TSP or PM <sub>10</sub> )	4,500	(5.0)	23	(50.0)	4.6	(10.0)

Note: \*\* For the Klamath Falls Urban Growth Area, the Significant Emission Rates for particulate matter apply to all new or modified sources for which permits have not been issued prior to April 29, 1988; particulate emission increases of 5.0 or more tons per year must be fully offset, but the application of lowest achievable emission rate (IAER) is not required unless the emission increase is 15 or more tons per year. At the option of sources with particulate emissions of 5.0 or more but less than 15 tons per year, IAER control technology may be applied in lieu of offsets.



RULEMAKING STATEMENTS  
FOR  
PROPOSED AMENDMENTS TO  
NEW SOURCE REVIEW RULES  
FOR THE KLAMATH FALLS AREA

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the intended action to amend a rule.

(1) Legal Authority

This proposal amends Oregon Administrative Rules (OAR) Chapter 340, Division 20, Section 225(22), Tables 1 and 2. It is proposed pursuant to the authority of Oregon Revised Statutes (ORS) 468.020, 468.280, 468.295 and 468.305.

(2) Need for these Rules

The U.S. Environmental Protection Agency adopted revisions to the national ambient air quality standards effective July 31, 1988, which replaced the Total Suspended Particulate (TSP) standards with standards for particulate of 10 microns characteristic diameter and under (PM<sub>10</sub>) per cubic meter (µg/m<sup>3</sup>).

The states are required to assure attainment and maintenance of EPA's ambient standards. To that end, the states develop strategies for control of appropriate sources of the contaminants which are targeted by the ambient standards. These proposed rule revisions compose a part of the Department's strategy for controlling industrial PM<sub>10</sub> emissions in the Klamath Falls Area.

(3) Principal Documents Relied Upon

OAR 340, Division 20, New Source Review Significant Emission Rates for the Klamath Falls Area.

Informational Report: New Federal Ambient Air Quality Standard for Particulate Matter (PM<sub>10</sub>) and its Effects on Oregon's Air Quality Program. (Presented as Agenda Item D, January 22, 1988 EQC Meeting)

LAND USE CONSISTENCY STATEMENT

The proposed rule changes appear to affect land use as defined in the Department's coordination program with LCDC, but appear to be consistent with the Statewide Planning Goals.

With regard to Goal 6, (air, water, and land resources quality), the proposed changes are designed to enhance and preserve air quality in the State and are considered consistent with the goal. The proposed rule changes do not appear to conflict with the other goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashion as indicated for other testimony on these rules.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any appropriate conflicts brought to our attention by local, state, or federal authorities.

FISCAL AND ECONOMIC IMPACT STATEMENT

The adoption of the proposed rule would increase the pollution control costs for new or expanded industries within the Klamath Falls Urban Growth Boundary with particulate emission increases of five or more tons per year. The pollution control costs would vary depending on the type of new facility and the type of control technology appropriate for that facility.

Based on recent or proposed pollution control equipment for the wood products industries in the Medford area, the estimated increased capital costs of the proposed Klamath Falls rule change could range from \$5,000 to \$15,000 per ton of annual particulate emissions. The increased operation and maintenance costs could range from \$500 to \$1,000 per ton of particulate collected. The maximum cost impact of the proposed rules for new or expanded sources with potential particulate emissions of 15 or more tons per year could be increased capital costs of \$50,000 to \$150,000 and increase annual operation and maintenance costs of \$5,000 to \$10,000.

*Oregon Department of Environmental Quality*

## A CHANCE TO COMMENT ON...

Proposed Amendment to New Source Review Rules for the Klamath Falls Area  
NOTICE OF PUBLIC HEARING

Hearing Date: December 15, 1988  
Comments Due: December 15, 1988

**WHO IS  
AFFECTED:**

Residents and Industry of Klamath County

**WHAT IS  
PROPOSED:**

The Department of Environmental Quality is proposing to amend OAR 340, Division 20, Significant Emission Rates for new or modified industrial sources in the Klamath Falls Urban Growth Area.

**WHAT ARE THE  
HIGHLIGHTS:**

1. The amendments would reduce from 15 to 5 tons per year the Significant Emission Rate for particulate matter that triggers the need for emissions offsets in the Klamath Falls area.
2. Within the Klamath Falls Urban Growth Area, the amended Significant Emission Rates for particulate matter would apply to all new or modified sources for which permits have not been issued prior to April 29, 1988.

**HOW TO  
COMMENT:**

Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland (811 S.W. Sixth Avenue) or from the regional office nearest you. For further information, contact Sarah Armitage at (503) 229-5581.

A public hearing is scheduled for December 15, 1988, at 7:00 p.m. in the Commissioner's Hearing Room, Klamath County Courthouse Annex, 305 Main Street, Klamath Falls.

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ, but must be received by no later than December 15, 1988.

**WHAT IS THE  
NEXT STEP:**

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. If amendments are adopted they would be submitted to the U. S. Environmental Protection Agency as revisions to the Clean Air Act State Implementation Plan. The Commission's deliberation would come during a regularly scheduled meeting after the public hearing.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

AK1118 (11/88)

A-11



811 S.W. 6th Avenue  
Portland, OR 97204

11/1/88

**FOR FURTHER INFORMATION:**

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

ATTACHMENT C

Oregon Department of Environmental Quality

A CHANCE TO COMMENT ON...

NOTICE OF PUBLIC HEARING OAR 340-22-300

Hearing Date: April 17 and 19, 1989
Comments Due: April 21, 1989

HOW TO COMMENT:

Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland 811 S.W. Sixth Avenue or the regional office nearest you. For further information contact Bill Jasper at (503) 229-5081.

Public hearings will be held before a hearings officer at:

10:00 a.m. April 17, 1989 Portland Building Auditorium 1120 SW Fifth Portland, Oregon
7:00 p.m. April 19, 1989 Portland Building Auditorium 1120 SW Fifth Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ, but must be received by no later than April 21, 1989.

WHAT IS THE NEXT STEP:

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in June 2, 1989, as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

AK1354 (2/89)

Attachment C
Agenda Item
April 14, 1989
EQC Meeting

A-12



811 S.W. 6th Avenue
Portland, OR 97204

FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state call 1-800-452-4011.

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: March 10, 1989

TO: Environmental Quality Commission

FROM: Hearing Officer

SUBJECT: Hearing Report for Proposed Amendments to the New Source Review Rules for the Klamath Falls Area Held February 15, 1989.

Summary of Procedure

As announced in the public notice, a public hearing was held on Wednesday, February 15, 1988 at the Klamath County Courthouse Annex Commissioner's Hearing Room. The purpose of the hearing was to receive testimony on proposed amendments to the Department's New Source Review Rules (OAR 340-20-225(22), Tables 1 and 2 which define particulate matter (PM<sub>10</sub>) significant emission rates for industrial sources in Klamath Falls. John Core of the Department's Air Quality Division served as hearings officer. Public notice appeared in the Klamath Falls Herald & News newspaper on November 8, 1988 announcing scheduling of the hearing on December 15, 1988. However because of requests from the Klamath County Board of Commissioners and the City of Klamath Falls, the hearing was rescheduled for February 15, 1989 to provide additional time for development of testimony.

The hearing lasted 2 hours from 7 PM to 9 PM. Oral and written testimony was presented by 18 persons. Additional written testimony was received by mail from 9 other persons. The attachment lists the name, affiliation, form of testimony, and position (in favor of or opposed to the rule).

Summary of Testimony

Testimony received on the proposed rule amendments can be categorized into two groups; those in favor of the rule amendments and those opposed:

**Summary of Testimony in Favor of Rule Adoption**

Eight members of the public testified in favor of rule adoption citing the need to reduce particulate emissions. Doss Decker, Lewis Furber, Joseph Fisher, Nancy Roeder and Dorothy Chiero testified that particulate emissions from industry need to be reduced and that industry can well afford to better control

emissions. They also commented on several issues related to residential woodstoves, the need to develop economic incentives to promote the use of fuel other than wood for space heating and concerns about particle fallout from industrial facilities. Mavis McCormic of Keno, Oregon provided written testimony in favor of the rule citing the need for tighter emission control to attain national ambient air quality standards.

Testimony from the US Environmental Protection Agency, American Lung Association, the Oregon Environmental Council and the League of Women Voters all supported the rule citing the need for consistent treatment of industrial sources in PM<sub>10</sub> Group 1 nonattainment areas; the need for equity in reducing emissions from all sources within the nonattainment area; the unhealthful nature of air quality in Klamath Falls and efforts that industries in the Medford-Grants Pass airsheds have made to reduce emissions. The Oregon Environmental Council comments stressed the need for a stricter offset program to allow economic development while improving air quality and the equity in adopting the same 5-ton emission offset rule as applies in Medford.

#### Testimony in Opposition to Rule Adoption

Fifteen persons spoke in opposition to rule adoption including 4 members of the public, representatives from the Klamath County Board of Commissioners, the City of Klamath Falls, the Klamath County Health Department, Klamath County Chamber of Commerce, the Wood Heating Alliance, Klamath Consulting Co., Weyerhaeuser Corporation, Modoc Lumber Co., Columbia Plywood Co. and Jeld-Wen.

Testimony of all of those in opposition noted the unique nature of the air quality problem in Klamath Falls and the need for tailor-made solutions for the Klamath Basin rather than adoption of uniform industrial regulations across Southern Oregon and the ineffectiveness of the proposed rule in solving the problem. Much testimony was given on issues related to residential woodsmoke control, the need of local residents to use woodheating and the need to develop local, cooperative solutions rather than mandatory regulations imposed by the Department or the Environmental Protection Agency. Many of those testifying questioned Department information on the magnitude of the PM<sub>10</sub> problem in Klamath Falls, the sources contributing to the problem and whether proposed solutions are appropriate. The Klamath County Chamber of Commerce, Columbia Plywood and the Klamath County Air Quality Management Plan question the logic of adopting the Urban Growth Boundary as the nonattainment boundary.

The principal points of testimony presented by those opposed to the rule are outlined below:

Industrial Emission Impacts are Minor

Those opposed to the rule cite Department data that industrial contributions to the PM<sub>10</sub> problem are very small and that most of the year air quality in Klamath Falls is good. Those opposed argue that even if industrial emissions were totally eliminated, little if any, air quality benefits would be seen. Many believe that industrial emission impacts are less than that estimated by the Department because the buoyancy of boiler plumes will be above the Basin's very shallow inversions. Stanley Meyers of Jeld-Wen estimates that the reduction in the emission offset from 15 to 5 tons would result in only a 0.2 to 0.3 % improvement in air quality at a substantial cost to industry.

Department Estimates of Economic Impact are Incorrect

Testimony provided by all of those opposed to the rule cite the inadequacy of the Department's economic analysis of the impact of the rule on the industries as well as the community. Weyerhaeuser Corp., Columbia Plywood Co, Klamath County Chamber of Commerce. feel that the capital investment costs required to meet the 5 ton offset limit would be nearly five times that estimated by the Department. Jeld-Wen estimates that the capital cost of their boiler plant expansion will be from \$350,000 to \$500,000 with annual operating costs of \$40,000 to \$50,000. These costs are several times that estimated by the Department. The Klamath County Chamber of Commerce, the Board of Commissioners and others expressed concern regarding the impact of the proposed rule on the economic development of the Klamath Basin, the potential loss of jobs, related taxes, lost property taxes and multiplier impacts on retail, tourism and service industries.

Availability of Offset Emissions

Stanley Meyers of Jeld-Wen provided written testimony expressing concern that the emission offsets needed for industry to comply with the rule may not exist. Those emissions that are now available as offsets are likely to be used up quickly, leaving smaller industries with no options to accommodate growth. Offsets will not be able to be purchased from others because of the lack of industry in the airshed. As a result, a 5 ton offset rule will limit expansion of new and existing industry to an unreasonable and unnecessary extent.

Development of Local Solutions to the Problem

Commissioner Lindow representing the Klamath County Board of Commissioners, Stanley Meyers of Jeld-Wen, Kurt Schmidt of Modoc Lumber, Jim Keller of City of Klamath Falls, Greg Williams of the Chamber of Commerce, John Monfore of Weyerhaeuser, Drew Honzel of Columbia Plywood and others supported adoption of local solutions to the Klamath Basin's PM<sub>10</sub> air quality problem. All testified that local governments and industries need time to develop an effective plan without Department imposed regulation. A copy of a draft plan (Klamath County Air Quality Management Plan) was submitted into the hearing record by Commissioner Lindow as a suggested alternative to offset rule adoption. The Plan outlines a number of concerns regarding the nature of magnitude of the Basin's PM<sub>10</sub> problem, provides a broad outline of potential industry and woodstove measures that may be helpful in improving air quality and describes a range of public education programs that may be helpful in reducing residential woodsmoke emissions. The Plan contains no specific governmental or industry endorsements nor does it provide commitments for emission reductions.

The Urban Growth Boundary Does Not Describe the Nonattainment Area

The Klamath County Air Quality Management Plan, the Klamath County Chamber of Commerce, Columbia Plywood and testimony from Bob Shaw (Public) questioned the Department's rationale in selecting the Urban Growth Boundary as the legal definition of the nonattainment area. They testified that the problem area is not as large as the UGB and that adoption of the Boundary would be unnecessarily restrictive.

The Proposed Rule Should Not Be Retroactive

Stanley Meyers (Jeld-Wen) testified that by applying the proposed rule retroactively, Jeld-Wen will incur major additional costs that were not foreseen at the time of permit submittal. The moving of the "goal posts" proposed by the retroactive element of the rule has caused Jeld-Wen expensive project delays. The retroactive element of the rule should be deleted. Kurt Schmidt (Modoc Lumber) also supported deletion of the retroactive element of the rule.

Other Issues

Kurt Schmidt (Modoc Lumber) and Stanley Meyers (Jeld-Wen) testified that reducing the offset from 15 to 5 tons would discourage industrial expansions that generate the tax dollars needed to implement other control strategies (County public

Memo to: Environmental Quality Commission  
March 10, 1989  
Page 5

education programs, street sweepers, etc). Joan Riker (Klamath Consulting) and Drew Honzel (Columbia Plywood) questioned the need for the rule given the minor impact of industry in the airshed. John Crouch of the Wood Heating Alliance testified that the proposed rule would be ineffective and would undercut the communities cooperative effort to reduce woodstove emissions.

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Attachment



Klamath Falls Industrial Rule Hearing

NO.	NAME	AFFILIATION	ORAL	WRITTEN	POSITION
1	BILL ROBSON	PUBLIC	X	X	O
2	NANCY ROWLOTTAM	PUBLIC		X	F
3	STANLEY MEYERS	JELD-WEN	X	X	O
4	HAROLD NORTH	PUBLIC		X	F
5	PERRY RICKARD	KLAMATH CTY HEALTH		X	O
6	ANDREW GIGLER	PUBLIC	X	X	F
7	LEWIS FURBER	PUBLIC	X	X	F
8	KURT SCHMIDT	MODOR LUMBER CO.	X	X	O
9	GREG WILLIAMS	KLAMATH CTY C OF C	X	X	O
10	TED LINDOW	KLAMATH CTY COMMISS.	X	X	O
11	DREW HONZEL	COLUMBIA PLYWOOD CO.	X	X	O
12	JOHN MONFORE	WEYERHAUSER	X	X	O
13	SHARON LITTLE	LEAGUE WOMEN VOTERS		X	F
14	MARVIS McCORMIC	PUBLIC		X	F
15	JAMES KELLER	CITY, KLAMATH FALLS	X	X	O
16	JOHN CROUCH	WOOD HEAT ALLIANCE	X	X	O
17	JOAN RIKER	KLAMATH CONSULTING		X	O
18	JOE WELLER	AM. LUNG ASSN OF OR.		X	F
19	JOHN CHARLES	OR. ENV. COUNCIL		X	F
20	DAVID KIRCHER	US EPA REGION X		X	F
21	NANCY ROEDER	PUBLIC	X		F
22	ROBERT SHAW	PUBLIC	X		O
23	JIM KIMBIER	PUBLIC	X		O
24	DOSS DECKER	PUBLIC	X		F
25	JOSEPH FISHER	PUBLIC	X		O
26	DAN BROWN	DOUBLE DEE LUMBER	X		O
27	DOROTHY CHIERO	PUBLIC	X		F

Note: O means Opposed to Rule Adoption  
 F means Favors Rule Adoption

JEC/jec  
 John Core (229-5380)  
 (March 16, 1989)

RESPONSE TO TESTIMONY RECEIVED AT THE KLAMATH FALLS  
PUBLIC HEARING ON PROPOSED CHANGES TO INDUSTRIAL RULES

ISSUE NO. 1: Industry emissions and impacts are a small percentage of the PM<sub>10</sub> problem. Rule adoption would result in little air quality improvement.

RESPONSE: Presently industrial PM<sub>10</sub> emissions represent 4% and residential woodheating emissions represent 83% of the worst winter day Klamath Falls Urban Growth Boundary (UGB) air emissions. However, when the needed 85-90% reduction in woodheating emissions is achieved in order to attain compliance with the Federal daily PM<sub>10</sub> standard of 150 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), currently permitted industrial emissions will represent a very significant 20% of the UGB emissions. For every 15 tons/year increase in PM<sub>10</sub> that would be allowed for new or expanded industry under current rules without offsets an increase in industrial daily impacts of at least one microgram per cubic meter would be expected. Such an impact is classified by Department rules as a significant air quality impact and clearly such impacts could interfere with attaining and maintaining compliance with PM<sub>10</sub> air quality standards. In fact if only a few new or expanded industries were granted 15 tons/year PM<sub>10</sub> emission increases without offsets it could make attainment impossible because further control of woodheating or dust sources would be impractical to achieve. A remaining but still limited alternative would be to roll back all existing industrial source emissions through an areawide rule change that would require higher levels of emission control. Generally spreading the cost to locate a new industry or expand an existing one to all existing industry would not be considered an equitable requirement.

ISSUE NO. 2: The economic effects on industry and the community are significantly underestimated.

RESPONSE: The cost estimates identified by the Department were based on typical costs incurred by new facilities in order to provide the lowest achievable emission rate (LAER) and reduce particulate emissions by 10 tons per year (the difference between the current 15 tons per year emission rate that triggers LAER and offset requirements and the proposed 5 tons per year rate). These costs typically range from \$5,000 to \$15,000 per annual ton reduction, or \$50,000 to \$150,000 per annual 10 ton reduction.

For example, Medford Corporation in Medford estimated the cost of pollution control equipment at \$3,288,000 to meet LAER (equivalent to 0.015 grains per standard cubic foot) in its proposed new wood-fired power plant. This LAER pollution control equipment will reduce particulate emissions by about 654.5 annual tons compared

to a power plant of the same size just meeting the statewide standard for new boilers of 0.1 grains per standard cubic foot (115.5 annual tons versus 770 annual tons). This represents a cost of \$5,024 per annual ton reduction in order to meet LAER which is at the lower end of the \$5,000 to \$15,000 range identified by the Department.

The proposed Medford Corporation facility represents a very large power plant producing 480,000 pounds per hour of steam; as such, the cost per ton of emission control is lower than would otherwise be expected due to the economy of scale.

A more typical size new power plant would be one producing 50,000 pounds per hour of steam. JELD-WEN, an industry in the Klamath Falls area, estimated the cost of LAER pollution control equipment for this size of power plant at \$350,000 to \$500,000; the equipment vendor contacted by the Department estimated the total installed cost to be \$600,000 to \$800,000. The LAER pollution control equipment would reduce particulate emissions from 75 annual tons (at the 0.1 grains per standard cubic foot statewide limit) down to about 11 annual tons for a net reduction of 64 annual tons. This represents a cost of \$5,469 to \$7,813 per annual ton reduction (using the JELD-WEN estimates) or \$9,375 to \$12,500 per annual ton reduction (using the equipment vendor estimates); these costs per ton are all within the \$5,000 to \$15,000 range identified by the Department.

The discrepancy in the Department and industry cost estimates results from a specific case in which LAER would not be required under the current 15 annual ton LAER/offset criteria, but would be required under the 5 annual ton criteria, and the application of LAER results in greater than a 10 annual ton reduction. In this specific case involving JELD-WEN, internal offsets were available within the plant to reduce the net emission increase to less than 15 annual tons but not less than 5 annual tons. The application of LAER pollution control equipment would reduce particulate emissions by considerably more than needed to reduce the net increase to less than 5 annual tons. Thus the cost anticipated by JELD-WEN due to the proposed change in the LAER/offset criteria was the total cost of providing LAER (\$350,000 to \$500,000) so the 10 annual ton change in the LAER/offset criteria appears to represent \$35,000 to \$50,000 per annual ton.

This JELD-WEN example probably represents the worst case, or at least represents cases more typical of the smaller industries located in the Klamath Falls UGB.

A possible alternative to the 5 annual ton LAER/offset criteria, that would reduce the costs of cases like the JELD-WEN example and be more cost-effective, would be to keep the current 15 annual ton LAER criteria but require offsets at 5 or more annual tons. This would not require LAER for emission increases in the 5 to 15

annual ton range if external offsets (from residential woodstoves or other industries) were available to fully offset the increase.

**ISSUE NO. 3:** Available emission offsets are so few that the rule would prohibit industrial growth.

**RESPONSE:** About 150 to 300 tons per year of PM<sub>10</sub> emissions are available as potential offsets in the Klamath Falls area. This could accomodate 10 to 20 new or expanded industries with emissions of 15 tons per year.

The difference between actual 1986 PM<sub>10</sub> emissions and the PM<sub>10</sub>-equivalent PSELS indicates that 47 tons per year are available for expansion of existing industries (or available for emission trading to new sources locating in the area). An additional 100 tons per year could be obtained by reducing existing emissions to the levels proposed in the Medford area. The proposed Medford wood-fired boilers limits are 0.03 grains per standard cubic foot compared to the existing Klamath Falls limits of 0.1-0.2 grains per standard cubic foot (70-85% lower). The proposed Medford veneer drier limits for Douglas fir veneer are 0.30-0.45 pounds per thousand square feet of veneer (3/8" basis) compared to the existing Klamath Falls limits of 0.52-1.5 pounds per thousand (42-70% lower).

It may be possible to also obtain emission offsets from the reduction of residential woodburning emissions.

The 1987 Klamath Falls woodheating survey indicated that the average fireplace household burned 2.6 cords per year and the average woodstove (or fireplace insert) household burned 4.2 cords per year. The average household burning wood as the main heat source burned 4.7 cords per year and the average household with wood as the sole source of heat burned 5.1 cords per year.

The woodstove particulate emission factor reported in the AP-42 Emission Factor Manual of the U.S. Environmental Protection Agency (EPA) is 21 grams per kilogram of wood burned (or 42 pounds per ton). About 95% of residential woodsmoke emissions are in the PM<sub>10</sub> size range. The average cord of firewood is estimated to weigh 3500 pounds. This results in a woodstove emission factor of about 70 pounds per cord (or 0.035 tons per cord).

The Housing Authority of Jackson County is implementing a program to replace existing woodstoves in low-income households with more efficient and cleaner burning units. The funding is from Community Development Block Grants and other sources. Replacement of a woodstove with a natural gas heater provides a 99.8% reduction in emissions at a cost of about \$2,000 per home; replacement with a pellet unit provides about a 90% reduction.

Replacement of woodstoves with gas heaters in the Klamath Falls area would reduce emissions by 294 pounds per year per household (average woodstove household) to 329 pounds per year (household using wood as main heat source) to 357 pounds per year (household with wood as sole heat source). Replacement with pellet units would reduce emissions by 90% of these amounts.

To offset 15 annual tons of PM<sub>10</sub> emissions, about 84 sole source woodstove households would need to be converted to gas heat. In order to not interfere with the effectiveness of the woodstove curtailment program, the homes targeted for conversion to gas should be those in the severe problem area who would have the most difficulty complying with the curtailment program or even be exempt from curtailment: Low-income households with wood as the sole source of heat. At \$2,000 per home, this would cost a total of about \$168,000, or \$11,200 per annual ton of PM<sub>10</sub> emission reduction. This is within the \$5,000 to \$15,000 per annual ton initial cost estimate, but slightly above the initial total cost estimate range of \$50,000 to \$150,000 since an external offset such as this would require that the entire 15 annual ton increase be offset, not just the 10 annual ton difference between the current and proposed LAER/offset criteria.

The emission reduction would provide a net air quality benefit (as required by Department rules) in correcting the PM<sub>10</sub> health problem since the reduction would be achieved in the problem area during the problem time of year.

The use of woodstoves as offsets must be carefully limited to insure that enough woodheating emission reductions will be achieved to reach attainment of the PM-10 air quality standard. At least an 85-90% reduction in woodheating emissions will be needed to attain standards. About 4% of the woodburning households are sole-source woodheated and likely a large portion of these would be exempted from curtailment. About half of this category (representing about 25 tons per year of PM<sub>10</sub>) has lower incomes (less than \$20,000 household income) and would be a potential offset category. If a net air quality benefit can be shown (depending upon specific location of the new industrial emissions and compliance rate of the curtailment program) another 13% of the woodburning households representing lower income (less than \$20,000 household income) main-source woodheating homes might be eligible for use as offsets. This would represent an additional 150 or more tons per year of offsets.

**ISSUE NO. 4:** Local voluntary solutions to industrial emission growth management are needed rather than Department imposed rules.

**RESPONSE:** The success of any pollution control plan relies heavily on the cooperation of the residents and industries of a community. It is imperative, however, that the pollution control

plan is adequate to insure that health standards are met in a timely manner. The State Implementation Plan for PM<sub>10</sub> must contain effective and enforceable measures to address growth in industrial emissions. The emission offset requirements provide considerable flexibility for managing emissions and allowing economic development without interfering with progress toward meeting health standards.

**ISSUE NO. 5:** The Urban Growth Boundary should not be adopted as the nonattainment area.

**RESPONSE:** Designation of the boundary of the nonattainment area within which control strategies will be applied requires consideration of several issues:

1. The nonattainment boundary must include the geographical area within which national ambient air quality standards are currently being exceeded. Air Sampling studies completed in November, 1985, March, 1988 and January, 1989 have consistently show that minor day-to-day variations in the pattern of PM<sub>10</sub> levels exist depending on wind direction and the time of day of the survey. All surveys indicate a consistent pattern of maximum concentrations near Peterson School extending outward toward the downtown district, south toward Kingsley Field and westerly toward Green Springs Junction. The PM<sub>10</sub> levels appear to follow local topography with concentrations decreasing with increases in elevation. They also appear to follow the emission density of homes (woodstoves) in the area.
2. The nonattainment boundary must include the area within which air standards may be exceeded in the future. EPA requires that SIP control strategies consider future population, transportation, housing and industrial growth to assure that air standards will be attained and maintained. Development of a strategy to assure maintenance of air standards therefore requires that the nonattainment area boundary must be consistent with the regional planning boundary for which community growth projections are available.
3. The nonattainment area must be a legally defined boundary recognized by local governments. Legal definition is required for rulemaking purposes. Additionally, some component of the control strategy may need to be implemented through county land use planning ordinances tied to the Urban Growth Boundary.

Adoption of the Urban Growth Boundary as the nonattainment area is the only legally defined boundary that meets all of the above criteria.

ISSUE NO 6: The Rule Should Not Be Retroactive.

RESPONSE: The Department is concerned that PM<sub>10</sub> emission increases from expanding industrial sources that have already filed permit applications (Jeld-Wen) will significantly interfere with efforts to attain and maintain compliance with air quality standards. The addition of 15 tons per year of industrial emissions from Jeld-Wen would result in about a 1  $\mu\text{g}/\text{m}^3$  airshed impact on worst-case winter days in 1992 if emission offsets are not required. Additional impacts from other expanding and/or new industries would further complicate air quality standard attainment. Because of the extremely high degree of emission reduction needed to bring the Klamath Falls airshed into compliance with air quality standards, any increase in emissions must be highly controlled and/or totally offset to attain standards. The Department is also concerned about the inequity of seeking public cooperation in extensive control of emissions from woodheating households while permitting major expansions in industrial emissions.

MLH:mlh  
John Core (229-5380)  
Merlyn Hough (229-6446)  
(3/24/89)

## Attachment B

### Department of Environmental Quality Guidelines

#### Criteria for Establishing a Klamath Falls Residential Woodstove External Emission Offset Program

Federal and state rules require that PM<sub>10</sub> emission offsets be quantifiable, permanent and enforceable. The following guidance has been developed by the Department to provide industries with the basic criteria that must be satisfied to meet State of Oregon and Environmental Protection Agency offset rule requirements.

#### 1. Eligibility of Sources as External Offsets

Only wood heating homes that could otherwise be exempt from curtailment programs are eligible as sources of offsets, i.e., sole source woodheating homes with annual household incomes below 125 % of the HUD poverty level.

#### 2. Calculating Emission Offset Credits

Offset calculations are based on standard engineering emission inventory calculations using published EPA emission factors. The following emission reduction credit would be granted for each woodstove in Klamath Falls (based on an average of 4.2 cords/year usage) that is replaced with a nonwood heating system:

Stove Type Replaced	Offset Credit (Pounds of PM <sub>10</sub> per year)
Conventional	357
Certified, Catalytic	221
Certified, Noncatalytic	207

#### 3. Permanency of Offsets

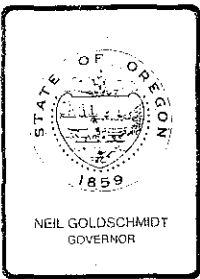
Woodstove offset credits must meet the following requirements:

- A. The permit applicant must require that the homeowner place a restrictive covenant on the property's deed prohibiting future installation of a woodheating device
- B. An independent, bonded third party must certify that the woodstove has been removed from the home and destroyed.

#### 4. Enforceability of Offsets

Offsets become SIP revisions and are therefore subject to EPA oversight audits and public comment with respect to meeting the three criteria (quantifiable, permanent and enforceable). Should some or all of the offset be found at any time to not meet existing rule requirements, the Department will revise the source's Plant Site Emission Limit within their Air Contaminant Discharge Permit by a compensating amount.





## Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

**WORK SESSION  
REQUEST FOR EQC DISCUSSION**

Meeting Date: June 1, 1989  
Agenda Item: #4  
Division: HSW  
Section: Solid Waste

**SUBJECT:**

\*Abandonment of wells at Bacona Road landfill site.

**PURPOSE:**

\*Protection of groundwater resources from contaminants entering though the wells.

**ACTION REQUESTED:**

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item  for Current Meeting
  - Other: (specify)
  
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment
  - Rulemaking Statements Attachment
  - Fiscal and Economic Impact Statement Attachment
  - Public Notice Attachment
  
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment
  
- Approve Department Recommendation
  - Variance Request Attachment
  - Exception to Rule Attachment
  - Informational Report Attachment
  - Other: (specify) Attachment



Meeting Date:  
Agenda Item:  
Page 3

The Metropolitan Service District signed a 20-year contract for solid waste disposal with Oregon Waste Systems, Inc. for their regional landfill in Gilliam County, and formally requested that the EQC not pursue the Bacona Road site. The 1987 Oregon legislature passed a law (Chapter 679, Section 5 (8)) which prohibits the EQC from letting its order for the establishment of the Bacona Road site expire before July 1, 1989.

**PROGRAM CONSIDERATIONS:**

In studying the Bacona Road site, the Department contracted for technical evaluation services with CH2M Hill, an engineering consulting firm. That technical work included the drilling of numerous wells on the site, including 5 wells of more than 200 feet in depth. If the Bacona Road site is not to be developed, these wells need to be properly abandoned, including filling and sealing, so that they do not present an access for contaminants into the groundwater.

CH2M Hill has indicated that they are prepared to perform the work in late June. The work will take approximately 2-4 days and will cost under \$20,000.\*

There is currently budgetary limitation and revenue available for the work to be completed in this biennium. However, official expiration of the EQC order cannot take place, by state law, until after July 1, 1989.

**ALTERNATIVES CONSIDERED BY THE DEPARTMENT:**

1. Wait until July 1, and have the EQC take official action before abandoning the wells.
2. Abandon the Bacona Road wells prior to July 1, using the budgetary limitation and existing contract.

**DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:**

The Department recommends abandonment prior to July 1, 1989. This would allow the abandonment to take place with existing contracts and using existing budgetary limitation. The risk of the EQC reopening the contested case hearing on Bacona Road is considered very low, given that Metro has a contract to take waste for 20 years at the Gilliam County site, has indicated no interest in developing the Bacona Road site, and

Meeting Date:  
Agenda Item:  
Page 4

that the contested case hearing and subsequent legal challenges are likely to involve considerable time and expense.\*

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Abandonment of the wells does not absolutely preclude the reconsideration of the Bacona Road site, although it is a step in that direction.

This action would be consistent with our overall policy of cooperation with local government in solid waste management planning. The Department has approved the 1988 Solid Waste Management Plan for Metro, which does not include the Bacona Road site as a disposal alternative.\*

ISSUES FOR COMMISSION TO RESOLVE:

1. Should the Department proceed with abandonment now, or wait and go through additional administrative expenses and contract discussions after the July 1 date.\*
2. Does the EQC desire to reopen the contested case on the Bacona road and actively consider it as a landfill site to serve the Portland metropolitan area.\*

INTENDED FOLLOWUP ACTIONS:

Contact CH2M Hill and have the well abandonment completed prior to July 1, 1989.\*

Approved:

Section:

Steve Greenwood

Division: \_\_\_\_\_

Director: \_\_\_\_\_

Report Prepared By: Steve Greenwood

Phone: 229-5782

Date Prepared: June 1, 1989

facilities as necessary to prevent impermissible conflict with surrounding uses. If such an agreement is relied on to satisfy any approval criteria, a condition shall be imposed to guarantee the performance of the actions specified. [1985 c.679 §4]

Sec. 5. (1) The commission, not later than July 1, 1987, shall issue an order directing the Department of Environmental Quality to establish a disposal site under chapter 679, Oregon Laws 1985, within Clackamas, Multnomah or Washington County or, subject to subsection (2) of section 3 of chapter 679, Oregon Laws 1985, within another county.

(2) In selecting a disposal site under this section, the commission shall review the study conducted under section 3 of chapter 679, Oregon Laws 1985, and the locations for disposal sites recommended by the department under section 3 of chapter 679, Oregon Laws 1985.

(3)(a) When findings are issued by the department under subsection (4) of this section, the commission in selecting a disposal site under chapter 679, Oregon Laws 1985, must comply with the state-wide planning goals adopted under ORS 197.005 to 197.430 and with the acknowledged comprehensive plan and land use regulations of the local government unit with jurisdiction over the area in which the disposal site is located.

(b) However, when findings are not issued under subsection (4) of this section, the standards established by section 4 of chapter 679, Oregon Laws 1985, take precedence over provisions in the comprehensive plan or land use regulations of the affected local government unit, and the commission may select a disposal site in accordance with those standards instead of, and without regard to, any provisions for locating and establishing disposal sites that are contained in the comprehensive plan or land use regulations of the affected local government unit. Any provision in a comprehensive plan or land use regulation that prevents the location and establishment of a disposal site that can be located and established under the standards set forth in section 4 of chapter 679, Oregon Laws 1985, shall not apply to the selection of a disposal site under chapter 679, Oregon Laws 1985.

(4) The department, not later than July 1, 1986, may determine whether the acknowledged comprehensive plans and land use regulations of the counties in which possible disposal sites being considered by the department are situated contain standards for determining the location of land disposal sites that are identical to or consistent with the standards specified in section 4 of chapter 679, Oregon Laws 1985. If the standards contained in the comprehensive plan and land use regulations of a county are identical to or consistent with the standards specified in section 4 of chapter 679, Oregon Laws 1985, the department may issue written findings to that effect and shall submit the findings to the commission.

(5) When selecting a disposal site under chapter 679, Oregon Laws 1987, the commission may attach limitations or conditions to the development, operation or maintenance of the disposal site, including but not limited to, setbacks, screening and landscaping, off-street parking and loading, access, performance bonds, noise or illumination controls, structure height and location limits, construction standards and periods of operation.

(6) If the Environmental Quality Commission directs the Department of Environmental Quality to establish or complete the establishment of a disposal site under this section,

the department shall establish the site subject only to the approval of the commission. Notwithstanding any other provision of chapter 679, Oregon Laws 1985 or any city, county or other local government charter or ordinance to the contrary, the Department of Environmental Quality may establish a disposal site under this section without obtaining any license, permit, franchise or other form of approval from a local government unit.

(7) The department shall identify conflicts with surrounding uses for any disposal site established under chapter 679, Oregon Laws 1985, and, to the extent practicable, shall mitigate or require the operator of the site to mitigate those conflicts.

(8) Notwithstanding any other provision of law, any order of the Environmental Quality Commission requiring the Department of Environmental Quality to establish a disposal site at the location selected by the commission under this section shall not expire before July 1, 1989. [1985 c.679 §5; 1987 c.876 §20]

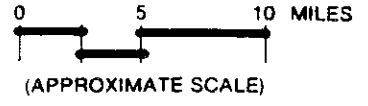
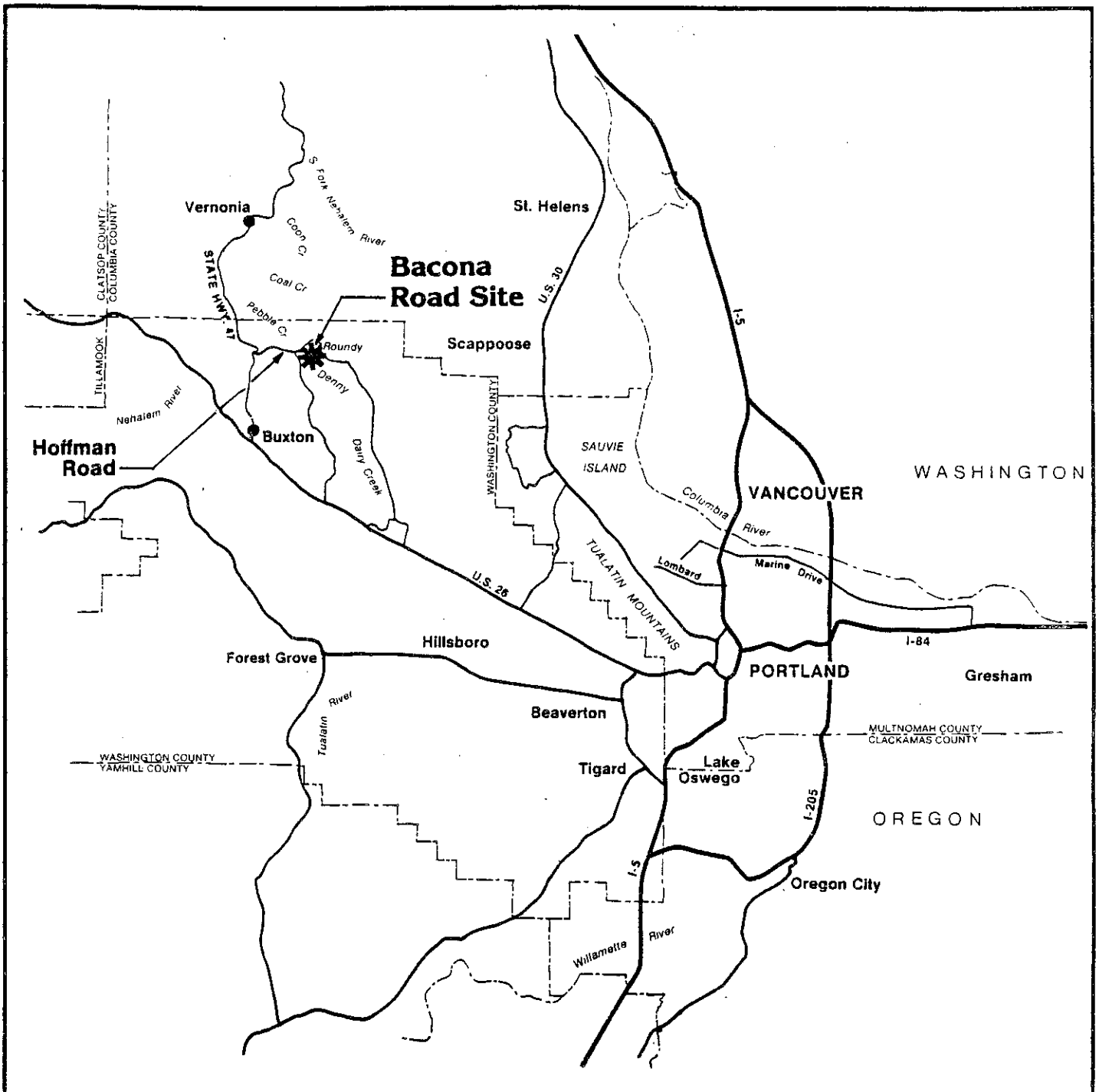
Sec. 6. (1) Notwithstanding ORS 183.400, 183.482, 183.484 and 197.825, exclusive jurisdiction for review of any decision made by the Environmental Quality Commission under this 1985 Act relating to the establishment or siting of a disposal site, any order to the Department of Environmental Quality to establish or complete such a site or any findings made by the department under section 5 of this 1985 Act is conferred upon the Supreme Court.

(2) Proceedings for review shall be instituted when any person adversely affected or aggrieved by the order of the commission files a petition with the Supreme Court. The petition shall be filed within 30 days following the date on which the order upon which the petition is based is served. The petition shall state the nature of the order or decision the petitioner desires reviewed and shall, by supporting affidavit, state the facts showing how the petitioner is adversely affected or aggrieved. Copies of the petition shall be served by registered or certified mail upon the commission. Within 30 days after service of the petition, the commission shall transmit to the Supreme Court the original or a certified copy of the entire record of the proceeding under review. Review under this section shall be confined to the record, and the court shall not substitute its judgment for that of the commission as to any issue of fact or agency discretion. Upon review, the Supreme Court may affirm, reverse or remand the order of the commission if the court finds that the order is not supported by substantial evidence in the record or is unconstitutional. Proceedings for review under this section shall be given priority over all other matters before the Supreme Court.

(3) Notwithstanding ORS 197.850, jurisdiction for judicial review of a final order of the Land Use Board of Appeals issued in any proceeding arising under this 1985 Act is conferred upon the Supreme Court. The procedure for judicial review of a final order under this subsection shall be as provided in subsection (2) of this section. [1985 c.679 §6]

Sec. 7. (1) Subject to policy direction by the commission in carrying out sections 3 and 5 of this 1985 Act, the department may:

(a) By mutual agreement, return all or part of the responsibility for development of the site to a local government unit, or contract with a local government unit to establish the site.



STATE OF OREGON  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

**VICINITY MAP**  
LANDFILL SITING STUDY  
BACONA ROAD SITE



**REQUEST FOR EQC ACTION**

Meeting Date: June 2, 1989  
Agenda Item: B  
Division: Management Services  
Section: Administration

**SUBJECT:**

March 1989 Activity Report

**PURPOSE:**

1. Provide general information to the Environmental Quality Commission (EQC) on the activities of the Department of Environmental Quality (Department).
2. Obtain Commission approval to remove Activity Report item from EQC agenda.

**ACTION REQUESTED:**

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item \_\_\_ for Current Meeting
  - Other: (specify)  
Accept Activity Report as informational item; approve removal of item from EQC agenda.
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment \_\_\_
  - Rulemaking Statements Attachment \_\_\_
  - Fiscal and Economic Impact Statement Attachment \_\_\_
  - Public Notice Attachment \_\_\_
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment \_\_\_

Meeting Date:  
Agenda Item:  
Page 2

- Approve Department Recommendation
  - Variance Request Attachment
  - Exception to Rule Attachment
  - Informational Report Attachment
  - Other: (specify) Attachment A
- Accept Activity Report as informational report and approve the removal of the Activity Report item from the EQC agenda.

**DESCRIPTION OF REQUESTED ACTION:**

(See Purpose Statement above)

**AUTHORITY/NEED FOR ACTION:**

- Required by Statute: \_\_\_\_\_ Attachment
- Enactment Date: \_\_\_\_\_
- Statutory Authority: \_\_\_\_\_ Attachment
- Pursuant to Rule: \_\_\_\_\_ Attachment
- Pursuant to Federal Law/Rule: \_\_\_\_\_ Attachment
- Other: Director's request. Attachment
- Time Constraints: (explain)

**DEVELOPMENTAL BACKGROUND:**

- Advisory Committee Report/Recommendation Attachment
- Hearing Officer's Report/Recommendations Attachment
- Response to Testimony/Comments Attachment
- Prior EQC Agenda Items: (list) Attachment
- Other Related Reports/Rules/Statutes: Attachment
- Supplemental Background Information Attachment



Meeting Date:  
Agenda Item:  
Page 3

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

None

PROGRAM CONSIDERATIONS:

None

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

None

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that the attached informational report be accepted and that the EQC approve Director's recommendation to eliminate the Activity Report from the EQC agenda. The report would be provided to EQC members for informational purposes in the EQC meeting packets.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Presentation of the Activity Report to the EQC is not required. At the April 14, 1989 EQC meeting the EQC took action to eliminate EQC approval of the report.

ISSUES FOR COMMISSION TO RESOLVE:

None

INTENDED FOLLOWUP ACTIONS:

None

Meeting Date:  
Agenda Item:  
Page 4

Approved:

Section:

Roberta Young

Division:

Rydia Taylor

Director:

Rydia Taylor

Report Prepared By: Roberta Young

Phone: 229-6408

Date Prepared: June 3, 1989

RY:y  
apl4act  
6/3/89

DEPARTMENT OF ENVIRONMENTAL QUALITY

Monthly Activity Report

March 1989

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
 Water Quality Division and  
Hazardous and Solid Waste Division  
 (Reporting Unit)

March 1989  
 (Month and Year)

SUMMARY OF PLAN ACTIONS

	Plans Received		Plans Approved		Plans Disapproved		Plans Pending
	Month	FY	Month	FY	Month	FY	
<u>Air</u>							
Direct Sources	6	49	6	65	0	0	14
Small Gasoline Storage Tanks Vapor Controls	-	-	-	-	-	-	-
Total	6	49	6	65	0	0	14
<u>Water</u>							
Municipal	15	96	5	105	1	4	28
Industrial	14	64	0	49	0	0	18
Total	29	160	5	154	1	4	46
<u>Solid Waste</u>							
Gen. Refuse	8	27	0	18	0	6	33
Demolition	1	2	0	1	-	-	2
Industrial Sludge	0	6	0	5	0	3	11
Total	9	35	0	24	0	9	48
<hr/>							
<u>GRAND TOTAL</u>	44	244	11	243	1	13	108

MY8366

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT

DIRECT SOURCES  
PLAN ACTIONS COMPLETED

Permit Number	Source Name	County	Date Scheduled	Action Description	Date Achieved
2490	EVANITE FIBER CORPORATION	BENTON	02/07/89	COMPLETED-APRVD	02/13/89 62
2634	JOHNSON CONTROLS, INC.	CLACKAMAS	01/25/89	COMPLETED-APRVD	02/07/89 62
0003	SOUTH COAST LUMBER CO.	CURRY	10/21/88	COMPLETED-APRVD	03/01/89 62
0045	GREGORY FOREST PRODUCTS	DOUGLAS	12/07/88	COMPLETED-APRVD	02/14/89 62
4171	BOISE CASCADE CORP	MARION	01/20/89	COMPLETED-APRVD	02/24/89 62
1865	OREGON STEEL MILLS, INC.	MULTNOMAH	01/26/89	COMPLETED-APRVD	02/09/89 62

TOTAL NUMBER QUICK LOOK REPORT LINES 6

A  
-  
2

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

March 1989  
(Month and Year)

SUMMARY OF AIR PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sources Under Permits	Sources Reqr'g Permits
	<u>Month</u>	<u>FY</u>	<u>Month</u>	<u>FY</u>			
<u>Direct Sources</u>							
New	5	23	3	21	14		
Existing	0	7	1	8	6		
Renewals	12	109	18	97	80		
Modifications	2	26	3	20	15		
Trfs./Name Chng.	<u>4</u>	<u>23</u>	<u>4</u>	<u>23</u>	<u>2</u>		
Total	23	188	29	169	117	1398	1422
<u>Indirect Sources</u>							
New	2	13	4	11	4		
Existing	0	0	0	0	0		
Renewals	0	0	0	0	0		
Modifications	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>		
Total	<u>2</u>	<u>13</u>	<u>4</u>	<u>11</u>	<u>4</u>	<u>297</u>	<u>301</u>
<u>GRAND TOTALS</u>	25	201	33	180	121	1695	1723

Number of  
Pending Permits

Comments

11	To be reviewed by Northwest Region
9	To be reviewed by Willamette Valley Region
15	To be reviewed by Southwest Region
10	To be reviewed by Central Region
8	To be reviewed by Eastern Region
17	To be reviewed by Program Operations Section
31	Awaiting Public Notice
<u>16</u>	Awaiting end of 30-day Public Notice Period
117	

MAR.5  
AA5323A (4/89)

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION

MONTHLY ACTIVITY REPORT

DIRECT SOURCES  
PERMITS ISSUED

Permit Number	Source Name	County Name	Appl. Rcvd.	Status	Date Achvd.	Type Appl.	
01	0001	BLUE MOUNTAIN ASPHALT CO	BAKER	12/12/88	PERMIT ISSUED	03/07/89	RNW
04	0001	PALMBERG PAVING CO INC	CLATSOP	01/04/89	PERMIT ISSUED	03/31/89	RNW
05	2085	ARMSTRONG WORLD IND INC	COLUMBIA	11/23/88	PERMIT ISSUED	04/04/89	MOD
05	2596	BERYL JACKSON EQUIP. CO.	COLUMBIA	11/30/88	PERMIT ISSUED	03/15/89	NEW
07	0008	CROWN PACIFIC, LTD.	CROOK	03/10/89	PERMIT ISSUED	03/31/89	TRS
10	0046	TRI CITY READY MIX, INC.	DOUGLAS	02/27/89	PERMIT ISSUED	03/31/89	RNW
17	0011	MURPHY CREEK LUMBER CO.	JOSEPHINE	03/03/89	PERMIT ISSUED	03/20/89	TRS
18	0084	CIRCLE DE LUMBER CO.	KLAMATH	12/07/88	PERMIT ISSUED	03/20/89	NEW
23	0031	ONTARIO ASPHALT & CONCRTE	MALHEUR	11/16/88	PERMIT ISSUED	03/07/89	RNW
26	2403	RHONE-POULENC, INC	MULTNOMAH	06/22/88	PERMIT ISSUED	03/15/89	RNW
26	3106	FREIGHTLINER CORP	MULTNOMAH	09/14/88	PERMIT ISSUED	03/07/89	RNW
27	6019	WILLAMETTE SEED CO.	POLK	01/05/89	PERMIT ISSUED	03/20/89	RNW
30	0091	PUREGRO COMPANY	UMATILLA	10/28/88	PERMIT ISSUED	03/07/89	RNW
31	0001	ROGERS ASPHALT PAVING CO	UNION	11/21/88	PERMIT ISSUED	03/07/89	RNW
31	0011	BOISE CASCADE CORP	UNION	12/06/88	PERMIT ISSUED	03/20/89	MOD
31	0037	PACIFIC WOODGAS CORP.	UNION	03/08/89	PERMIT ISSUED	03/20/89	TRS
32	0020	CITY OF ENTERPRISE	WALLOWA	01/20/89	PERMIT ISSUED	03/20/89	RNW
34	2681	INTEL CORPORATION	WASHINGTON	12/08/88	PERMIT ISSUED	03/07/89	MOD
36	7004	TAYLOR LUMBER & TREATING	YAMHILL	06/06/88	PERMIT ISSUED	03/31/89	RNW
37	0015	KIEWIT PACIFIC CO.	PORT.SOURCE	02/08/89	PERMIT ISSUED	03/07/89	RNW
37	0038	DESCHUTES READY MIX S & G	PORT.SOURCE	02/08/89	PERMIT ISSUED	03/07/89	RNW
37	0039	W. W. D. CORPORATION	PORT.SOURCE	02/01/89	PERMIT ISSUED	03/07/89	RNW
37	0098	OR DEPT OF TRANSPORTATION	PORT.SOURCE	02/23/89	PERMIT ISSUED	03/20/89	RNW
37	0191	ROGUE AGGREGATES, INC.	PORT.SOURCE	03/14/89	PERMIT ISSUED	03/31/89	TRS
37	0221	WINCHESTER ROCK PRODUCTS	PORT.SOURCE	03/06/89	PERMIT ISSUED	03/31/89	RNW
37	0228	JONES-SCOTT CO	PORT.SOURCE	02/21/89	PERMIT ISSUED	03/20/89	RNW
37	0315	ROSEBURG LUMBER COMPANY	PORT.SOURCE	02/24/89	PERMIT ISSUED	03/20/89	RNW
37	0399	DESCHUTES READY MIX	PORT.SOURCE	12/16/88	PERMIT ISSUED	03/20/89	EXT
37	0400	FERRY CREEK ROCK & CONC.	PORT.SOURCE	01/05/89	PERMIT ISSUED	03/27/89	NEW

TOTAL NUMBER QUICK LOOK REPORT LINES

29

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

March 1989  
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project	* Date of	* Action	*
*	* /Site and Type of Same	* Action	*	*
*	*	*	*	*

Indirect Sources

Clackamas	Berry Hill Shopping Center 900 Spaces File No. 03-8810	3/06/89	Final Permit Issued
Washington	Beaver Ridge 525 Spaces File No. 34-8811	3/06/89	Final Permit Issued
Multnomah	Portland Christian Center Parking Lot Expansion 200 Spaces File No. 26-8901	3/20/89	Final Permit Issued
Washington	Bayridge Apartments 402 Spaces File No. 34-8903	3/20/89	Final Permit Issued



DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Air Quality Division  
(Reporting Unit)

March 1989  
(Month and Year)

PERMIT TRANSFERS & NAME CHANGES

<u>Permit Number</u>	<u>Company Name</u>	<u>Type of Change</u>	<u>Status of Permit</u>
03-2501	Concrete Services, Inc.	Transfer	Ready to be issued
07-0008	Crown Pacific, Ltd.	Transfer	Issued
10-0121	Hoover Treated Wood Products	Name Change <sup>1</sup>	Being drafted
15-0064	Rogue Aggregates, Inc.	Transfer <sup>1</sup>	Being drafted
17-0011	Murphy Creek Lumber Co.	Transfer	Issued
22-5196	White Plywood Co.	Transfer <sup>1</sup>	Being drafted
26-2579	American Linen	Transfer	Ready to be issued
31-0037	Pacific Woodgas Corp.	Transfer	Issued
37-0191	Rogue Aggregates, Inc.	Transfer	Issued

<sup>1</sup>In conjunction with permit renewal.

<sup>2</sup>In conjunction with permit modification.

MAR. 5TC  
AD3481 (4/89)

DEPARTMENT OF ENVIRONMENTAL QUALITY  
MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

March 1989  
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project	* Date of	* Action	*
*	* /Site and Type of Same	* Action	*	*
*	*	*	*	*

MUNICIPAL WASTE SOURCES - 6

Page 1 of 1

Douglas	Elkton Sewerage System	4-4-89	Verbal Comments to Engineer	
Clackamas	Lake Oswego Mountain View Estates	4-6-89	Rejected. Comments to Engineer	
Jefferson	Culver Industrial Park Sewer	4-10-89	Provisional Approval	
Deschutes	Bend Awbrey Butte Phase 12 Lift Station	3-21-89	Provisional Approval	
Benton	Albany STP, Phase I	3-14-89	Comments to Engineer	
Benton	Corvallis Philomath Boulevard Phase II Annexation Area	3-28-89	Evaluation and Staff Report	

SD\SL\WC4799

DEPARTMENT OF ENVIRONMENTAL QUALITY  
MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

March 1989  
(Month and Year)

PLAN ACTIONS PENDING

* County	* Name of Source/Project * /Site and Type of Same	* Date * Received	* Status
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INDUSTRIAL WASTE SOURCES - 18

Tillamook	Tillamook County Creamery Association Wastewater Treatment Facility Modification	11-17-88	Review Completion Projected 4-30-89
Marion	Siltec Corporation Initial Liquid Effluent Treatment Facility	11-22-88	Review Completion Projected 4-30-89
Coos	Weyerhaeuser Paper Co. Aerators, Earthen Dikes and Floating Dikes	12-23-88	Review Completion Project 4-30-89
Benton	Hewlett Packard Acid Neutralization and Fluoride Treatment Facilities	2-14-89	Review Completion Projected 4-30-89
Multnomah	Portland General Electric Company - Multnomah Substation Oil Spill Containment Facility	3-16-89	Review Completion Projected 4-30-89
Multnomah	Portland General Electric Company - Sylvan Substation Oil Spill Containment Facility	3-16-89	Review Completion Projected 4-30-89
Yamhill	Portland General Electric Company - Amity Substation Oil Spill Containment Facility	3-16-89	Review Completion Projected 4-30-89

SD\SL\WC4799

DEPARTMENT OF ENVIRONMENTAL QUALITY  
MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

March 1989  
(Month and Year)

PLAN ACTIONS PENDING

* County	* Name of Source/Project	* Date	* Status
*	* /Site and Type of Same	* Received	*
*	*	*	*

INDUSTRIAL WASTE SOURCES

Multnomah	Pacific Power & Light Co. Oil Spill Containment Facility	3-22-89	Review Completion Projected 4-30-89
Washington	Montinore Vineyards Wastewater Treatment Facility	3-23-89	Review Completion Projected 4-30-89
Lincoln	Georgia Pacific - Toledo Concrete Collection Sump with Submersible Pump and Holding Tank	3-23-89	Review Completion Projected 4-30-89
Polk	Pacific Power & Light Co. Dallas Service Center Oil Spill Containment Facility	3-24-89	Review Completion Projected 4-30-89
Josephine	Pacific Power & Light Co. Grants Pass Service Center Oil Spill Containment Facility	3-24-89	Review Completion Projected 4-30-89
Lincoln	Pacific Power & Light Co. Lincoln City Service Center Oil Spill Containment Facility	3-24-89	Review Completion Projected 4-30-89
Jackson	Pacific Power & Light Co. Medford Service Center Oil Spill Containment Facility	3-24-89	Review Completion Projected 4-30-89
Umatilla	Pacific Power & Light Co. Pendleton Service Center Oil Spill Containment Facility	3-24-89	Review Completion Projected 4-30-89

SD\SL\WC4799

DEPARTMENT OF ENVIRONMENTAL QUALITY  
MONTHLY ACTIVITY REPORT

Water Quality Division  
(Reporting Unit)

March 1989  
(Month and Year)

PLAN ACTIONS PENDING

* County	* Name of Source/Project	* Date	* Status
*	* /Site and Type of Same	* Received	*
*	*	*	*

INDUSTRIAL WASTE SOURCES

Douglas	Pacific Power & Light Co. Roseburg Service Center Oil Spill Containment Facility	3-24-89	Review Completion Projected 4-30-89
Coos	Pacific Power & Light Co. Lockhart Substation Oil Spill Containment Facility	3-30-89	Review Completion Projected 4-30-89
Jackson	Meditate Corporation Water Cooling Tower with Heat Exchanger	3-30-89	Review Completion Projected 4-30-89

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
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Water Quality Division  
(Reporting Unit)

March 1989  
(Month and Year)

PLAN ACTIONS PENDING

* County	* Name of Source/Project	* Date	* Status	* Reviewer *
*	* /Site and Type of Same	* Received	*	*
*	*	*	*	*

MUNICIPAL WASTE SOURCES - 28

Page 1 of 3

Umatilla	Larry Greenwalt Shady Rest Mobile Home Court Bottomless Sand Filter	4-21-88	Review Completion Projected 4-30-89	JLV
Clatsop	Glenwood Mobile Park Modification to dual media filter from anoxic tower	10-4-88	Review Completion Projected 4-30-89	JLV
Clackamas	Government Camp San. Dist. Mt. Hood Motel	11-21-88	Review Completion Projected 4-30-89	JLV
Curry	Brookings Contract #2 (70%)	2-2-88	Review Completion Projected 7-31-89	KMV
Deschutes	Starwood Sanitary District Block G	1-10-89	Review Completion Projected 4-30-89	JLV
Clackamas	Gladstone Marsh Property	2-1-90	Review Completion Projected 4-30-89	JLV
Clackamas	Oak Lodge Sanitary District Dory Bluff	2-1-89	Review Completion Projected 4-30-89	JLV
Umatilla	Ferndale School Dist. No. 1 On-Site System Addition	2-16-89	Review Completion Projected 4-30-89	JLV
Lane	Florence River's Edge	3-15-89	Review Completion Projected 4-30-89	JLV
Lincoln	Yachats Center Way List Station	3-15-89	Review Completion Projected 4-30-89	JLV
Lane	Jess Staton Camp Yale	3-15-89	Review Completion Projected 4-30-89	JLV
Curry	Brookings Kelly & Wiggins Subdivision	3-20-89	Review Completion Projected 4-30-89	DSM

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(Reporting Unit)

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PLAN ACTIONS PENDING

* County	* Name of Source/Project	* Date	* Status	* Reviewer *
*	* /Site and Type of Same	* Received *		*
*	*	*	*	*

MUNICIPAL WASTE SOURCES

Page 2 of 3

Marion	Salem Willowlake Piping Imp.	3-22-89	Review Completion Projected 4-30-89	DSM
Jefferson	United Methodist Church Suttee Lake Camp Sewerage System Improvement	3-23-89	Review Completion Projected 4-30-89	JLV
Morrow	Boardman Locust Road Ext.	3-27-89	Review Completion Projected 4-30-89	JLV
Clatsop	Seaside Circle Creek Campground	3-28-89	Review Completion Projected 4-30-89	JLV
Union	Union Headworks Improvement	3-30-89	Review Completion Projected 4-30-89	JLV
Klamath	Klamath Falls 2nd Add. to North Hills	3-23-89	Review Completion Projected 4-30-89	JLV
Wallowa	Wallowa Lake Service Dist. STEP Systems	3-31-89	Review Completion Projected 4-30-89	DSM

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
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Water Quality Division  
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PLAN ACTIONS PENDING

* County	* Name of Source/Project	* Date	* Status	* Reviewer
*	* /Site and Type of Same	* Received	*	*
*	*	*	*	*

MUNICIPAL WASTE SOURCES

Page 3 of 3

-----PROJECTS BELOW ARE "ON-HOLD"-----

Columbia	Scappoose Sewage Treatment Plant Expansion	3-11-87	On Hold, Financing Incomplete	DSM
Deschutes	Romaine Village Recirculating Gravel Filter (Revised)	4-27-87	On Hold For Surety Bond	Not Assigned
Marion	Breitenbush Hot Springs On-Site System	5-27-86	On Hold, Uncertain Financing	JLV
Curry	Whaleshead Beach Campground Gravel Recirculation Filter (Revised)	5-20-87	Holding for Field Inspection	JLV
Multnomah	Troutdale Frontage Road Sewage Pump Station Replacement	4-25-88	Bids Rejected, Being Redesigned	DSM
Deschutes	Bend Bend Millwork Sewer and Pump Station	1-30-89	Plan Rejected Awaiting Design Revisions	DSM
Washington	USA/Durham AWWTP Phase I Exp.	12-27-88	Holding For Substan- tiation From UAS of Basis For Design	DSM
Yamhill	Amity Outfall	3-13-89	Awaiting Planning Evaluation	DSM
Polk	Falls City Phase II Improvements	2-22-89	Awaiting NPDES Permit	JLV

SD\SL\WC4799



Summary of Actions Taken  
On Water Permit Applications in MAR 89

4 APR 89

Source Category & Permit Subtype	Number of Applications Filed						Number of Permits Issued						Applications Pending Permits Issuance (1)			Current Number of Active Permits					
	Month			Fiscal Year			Month			Fiscal Year			NPDES	WPCF	Gen	NPDES	WPCF	Gen			
	NPDES	WPCF	Gen	NPDES	WPCF	Gen	NPDES	WPCF	Gen	NPDES	WPCF	Gen									
Domestic																					
NEW		2		1	17	2				2	11		4	20	2						
RW				1	1					2	1		2	1							
RWO	3	2		41	20			3		9	13		93	41							
MW				3									4								
MWO	1			5	7		1			5	5		3	3							
Total	4	4		51	45	2	1	3		18	30		106	65	2	225	203	29			
Industrial																					
NEW			4	5	8	31	1		9	2	9	44	5	11	10						
RW				2						2			2								
RWO	2	2		17	15		2	1		13	10		25	21							
MW										1			3								
MWO				6	6	6				5	7		1	1							
Total	2	2	4	30	29	37	3	1	9	23	26	44	36	33	10	158	131	450			
Agricultural																					
NEW					3				49			95		2							
RW																					
RWO					3			1			1		1	3							
MW																					
MWO					1						2										
Total					7			1	49		3	95	1	5		2	8	697			
Grand Total	6	6	4	81	81	39	4	5	58	41	59	139	143	103	12	385	342	1176			

1) Does not include applications withdrawn by the applicant, applications where it was determined a permit was not needed, and applications where the permit was denied by DEQ.

It does include applications pending from previous months and those filed after 31-MAR-89.

NEW - New application  
 RW - Renewal with effluent limit changes  
 RWO - Renewal without effluent limit changes  
 MW - Modification with increase in effluent limits  
 MWO - Modification without increase in effluent limits

PERMIT CAT NUMBER	TYPE	SUB- TYPE OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
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General: Cooling Water

IND	100	GEN01 NEW	OR003261-1	102559/A FUJITSU AMERICA, INC.	HILLSBORO	WASHINGTON/NWR	10-MAR-89	31-DEC-90
IND	100	GEN01 NEW	OR003272-7	104446/A IMACC CORPORATION	PORTLAND	MULTNOMAH/NWR	14-MAR-89	31-DEC-90
IND	100	GEN01 NEW	OR003274-3	104459/A HOOD RIVER VILLAGE RESORT, INC.	HOOD RIVER	HOOD RIVER/CR	24-MAR-89	31-DEC-90

General: Confined Animal Feeding

AGR	800	GEN08 NEW		104401/A WALL, ALAN R.	WILLIAMS	JOSEPHINE/SWR	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104403/A SCHAEFER, JOE	MOLALLA	CLACKAMAS/NWR	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104405/A EVANS, HOWARD E.	COVE	UNION/ER	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104407/A COWDREY, DWIGHT O.	BROWNSVILLE	LINN/WVR	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104409/A YOUNG, ROBERT AND PAMELA	DALLAS	POLK/WVR	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104411/A OBERMEIER, ERNEST	RAINIER	COLUMBIA/NWR	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104413/A CARTER, DONALD E.	PARKDALE	HOOD RIVER/CR	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104415/A THOMAS, CHUCK	ONTARIO	MALHEUR/ER	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104417/A GERMANG, DAVID	ONTARIO	MALHEUR/ER	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104419/A ORISIO, RAY	WOODBURN	MARION/WVR	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104421/A BICKLE, LOWELL	GRANTS PASS	JOSEPHINE/SWR	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104423/A ARRITOLA, RICHARD E.	MT. ANGEL	MARION/WVR	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104425/A OTT, GERALD R.	SILVERTON	MARION/WVR	06-MAR-89	31-JUL-92
AGR	800	GEN08 NEW		104427/A SHULL, GARY	COQUILLE	COOS/SWR	06-MAR-89	31-JUL-92

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CAT	PERMIT NUMBER	TYPE	SUB-TYPE	OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
AGR	800	GEN08	NEW		104428/A	TANIS, LARRY R.	CORNELIUS	WASHINGTON/NWR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104426/A	WILLOWCREEK FARMS INC.	VALE	MALHEUR/ER	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104424/A	MAURER, ANN	MT. ANGEL	MARION/WVR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104422/A	PEAKS VIEW FARMS, INC.	SCOTT'S MILL	MARION/WVR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104420/A	RANSON, ERNIE	NYSSA	MALHEUR/ER	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104418/A	K & C HAIGHT DAIRY	FOREST GROVE	WASHINGTON/NWR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104416/A	KLAMATH DAIRY PRODUCTS - DAIRY FARM	KLAMATH FALLS	KLAMATH/CR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104414/A	BELLEVALE FARMS	MYRTLE POINT	COOS/SWR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104412/A	CHAMBERLIN RANCH	RICHLAND	BAKER/ER	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104410/A	BURRESON, MARTIN A.	GOLD HILL	JACKSON/SWR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104408/A	DUEY, DONALD R.	MYRTLE POINT	COOS/SWR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104406/A	BAUMAN, CLYDE	WOODBURN	MARION/WVR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104404/A	GOURLEY, STAN	ALBANY	LINN/WVR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104402/A	SMALLEY, JACK R. AND SUZANNE M.	SCIO	LINN/WVR	06-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104441/A	VALLEY VIEW DAIRY	HAINES	BAKER/ER	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104430/A	RECLA DAIRY & FARMS	VALE	MALHEUR/ER	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104429/A	ROGERS DAIRY	ONTARIO	MALHEUR/ER	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104436/A	VANDEHEY, ROBERT C.	BANKS	WASHINGTON/NWR	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104434/A	MCLAIN, GERRY	WALLOWA	WALLOWA/ER	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104433/A	HARDING, CLEO	MCMINNVILLE	YAMHILL/WVR	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104432/A	ELMER, HOWARD W.	COVE	UNION/ER	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104431/A	WILLIAMSON, CLAUDE L.	MAUPIN	WASCO/CR	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104439/A	BULLY CREEK DAIRY	VALE	MALHEUR/ER	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104437/A	KJERULF, ROBERT & LINDA	TURNER	MARION/WVR	10-MAR-89	31-JUL-92

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PERMIT CAT	NUMBER	TYPE	SUB- TYPE	OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
AGR	800	GEN08	NEW		104438/A	CARTER, DEBRA	REDMOND	DESCHUTES/CR	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104440/A	TALLAN JR, OTIS S.	CANBY	CLACKAMAS/NWR	10-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104460/A	MATHEWS, JERRY & DONA	NYSSA	MALHEUR/ER	24-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104466/A	CONLEY, WALTER T.	MONMOUTH	POLK/WVR	24-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104468/A	KESSI BROTHERS	SCAPPOOSE	COLUMBIA/NWR	24-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104467/A	BURKE, WALTER	GRESHAM	MULTNOMAH/NWR	24-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104463/A	HERTEL, CHARLES	FOREST GROVE	WASHINGTON/NWR	24-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104464/A	SCHMIDT, FLORENCE & RICHARD	NORWAY	COOS/SWR	24-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104465/A	BISCHOF, DON	WILSONVILLE	CLACKAMAS/NWR	24-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104462/A	WARNER, AUSTIN	CARLTON	YAMHILL/WVR	24-MAR-89	31-JUL-92
AGR	800	GEN08	NEW		104461/A	BRELAGE PACIFIC DAIRY INC.	NORTH BEND	COOS/SWR	24-MAR-89	31-JUL-92

General: Gravel Mining

IND	1000	GEN10	NEW		104400/A	GUIDO, INC., P.K. DBA	ROSEBURG	DOUGLAS/SWR	01-MAR-89	31-DEC-91
IND	1000	GEN10	NEW		104396/A	PARKER-NORTHWEST PAVING CO. DBA	CANBY	CLACKAMAS/NWR	21-MAR-89	31-DEC-91
IND	1000	GEN10	NEW		17574/A	COAST WIDE READY MIX COMPANY	TILLAMOOK	TILLAMOOK/NWR	28-MAR-89	31-DEC-91

General: Oily Stormwater Runoff

IND	1300	GEN13	NEW	OR003269-7	104365/A	JAMES RIVER II, INC.	FAIRVIEW	MULTNOMAH/NWR	03-MAR-89	31-JUL-93
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PERMIT CAT NUMBER	SUB- TYPE OR NUMBER	FACILITY	FACILITY NAME	CITY	COUNTY/REGION	DATE ISSUED	DATE EXPIRES
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General: Seasonal food procs. and wineries

IND	1400 GEN14 NEW	104387/A	DOMAINE DROUHIN OREGON, INC.	DUNDEE	YAMHILL/WVR	01-MAR-89	31-DEC-93
IND	1400 GEN14 NEW	87438/A	TANKERSLEY, RONALD P.	HILLSBORO	WASHINGTON/NWR	03-MAR-89	31-DEC-93

NPDES

IND	100562 NPDES RWO	OR002868-1	81600/A PACIFIC WESTERN EXTRUDED PLASTICS COMPANY	EUGENE	LANE/WVR	10-MAR-89	28-FEB-94
IND	100565 NPDES RWO	OR000017-5	10125/A BORDEN, INC.	SPRINGFIELD	LANE/WVR	13-MAR-89	28-FEB-94
DOM	100555 NPDES MWO	OR003118-6	85860/B TEXACO REFINING AND MARKETING INC.	HALSEY	LINN/WVR	16-MAR-89	30-NOV-93
IND	100566 NPDES NEW	OR003257-3	103919/A OREGON STATE UNIVERSITY MICROBIOLOGY, DEPARTMENT OF	CORVALLIS	LINN/WVR	16-MAR-89	31-DEC-93

WPCF

DOM	100561 WPCF RWO	27113/A	DANNA BROTHERS, LTD.	PORTLAND	MULTNOMAH/NWR	10-MAR-89	28-FEB-94
DOM	100563 WPCF RWO	23800/A	THE DELPHIAN SCHOOL	SHERIDAN	YAMHILL/WVR	10-MAR-89	28-FEB-94
IND	100564 WPCF RWO	9298/A	BOHEMIA INC	EUGENE	LANE/WVR	13-MAR-89	28-FEB-94
DOM	100567 WPCF RWO	90562/A	LEWIS, RICHARD M. & ARNA J.	ROSEBURG	DOUGLAS/SWR	16-MAR-89	31-MAR-94
AGR	100568 WPCF RWO	OR003239-5	96973/A WILLAMETTE EGG FARMS, INC.	CANBY	CLACKAMAS/NWR	16-MAR-89	28-FEB-94

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PERMIT TRANSFERS

Part of  
Water Quality Division Monthly Activity Report  
(Period March 1, 1989 through March 31, 1989)

<u>Permit No.</u>	<u>Previous Facility Name</u>	<u>Facility</u>	<u>New Facility Name</u>	<u>City</u>	<u>County</u>	<u>Date Transferred</u>
100555	Sunny Service Stations, Inc.	85860	Texaco Refining and Marketing, Inc.	Halsey	Linn/WVR	3/16/89 (Ownership)

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division  
(Reporting Unit)

March 1989  
(Month and Year)

PLAN ACTIONS COMPLETED

* County	* Name of Source/Project	* Date of	* Action	* Action	* Action
*	*/Site and Type of Same	* Action	*	*	*
*	*	*	*	*	*

None

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division  
(Reporting Unit)

March 1989  
(Month and Year)

PLAN ACTIONS PENDING - 48

* County *	* Name of Facility *	* Date Plans Rec'd. *	* Date of Last Action *	* Type of Action and Status *	* Location *
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Municipal Waste Sources - 33

Baker	Haines	12/13/85	12/13/85	(R) Plan received	HQ
Deschutes	Knott Pit Landfill	8/20/86	8/20/86	(R) Plan received	HQ
Deschutes	Fryrear Landfill	8/20/86	8/20/86	(R) Plan received	HQ
Deschutes	Negus Landfill	8/20/86	8/20/86	(R) Plan received	HQ
Marion	Ogden Martin Brooks ERF	3/24/87	3/24/87	(N) As-built plans rec'd.	HQ
Douglas	Reedsport Lndfl.	5/7/87	5/7/87	(R) Plan received	HQ
Benton	Coffin Butte	6/1/87	6/1/87	(R) Plan received	HQ
Umatilla	City of Milton-Freewater	11/19/87	11/19/87	(N) Plan received (groundwater study)	HQ
Marion	Ogden-Martin (metal rec.)	11/20/87	11/20/87	(N) Plan received	HQ
Marion	Browns Island Landfill	11/20/87	11/20/87	(C) Plan received (groundwater study)	HQ
Harney	Burns-Hines	12/16/87	12/16/87	(R) Plan received	HQ
Marion	Woodburn TS	1/5/88	1/5/88	(N) Revised plan rec'd.	HQ
Multnomah	Riedel Composting	5/5/88	5/5/88	(N) Plans received	HQ
Umatilla	Pendleton Landfill	6/6/88	6/6/88	(R) Plans received	HQ
Coos	Les' Sanitary Service TS	6/30/88	6/30/88	(N) Plans received.	HQ



* County *	* Name of Facility *	* Date Plans Rec'd. *	* Date of Last Action *	* Type of Action and Status *	* Location *
Malheur	Brogan TS	7/1/88	7/1/88	(N) Plans received.	HQ
Marion	Marion Recycling Center, Inc.	7/20/88	7/20/88	(N) Plans received	HQ
Douglas	Lemolo Transfer	9/1/88	9/1/88	(M) Plans received	HQ
Lane	Franklin Landfill	9/29/88	9/29/88	(R) Groundwater report received	HQ
Umatilla	Athena Landfill	11/15/88	11/15/88	(M) Plans received	
Jackson	Ashland Landfill	12/1/88	12/1/88	(N) Plans received	HQ
Lake	Lake County Lndfl.	12/5/88	12/5/88	(C) Plans received	HQ
Deschutes	Alfalfa Landfill	12/19/88	12/19/88	(C) Plans received	HQ
Morrow	Heppner Landfill	12/20/88	12/20/88	(N) Plans received	HQ
Mutlnomah	St. Johns Landfill Groundwater study	12/22/88	12/22/88	(C) GW study received	HQ
Marion	Woodburn Ashfill	1/3/89	1/3/89	( ) As-built plans rec'd.	HQ
Gilliam	Ore. Wste. Sys. (O.W.S.) Landfill	2/14/89	2/14/89	(N) Plans received	HQ
Lincoln	Agate Beach Lndfl.	2/27/89	2/27/89	( ) Leachate plan rec'd.	HQ
Gilliam	S. Gilliam Co. Landfill	3/1/89	3/1/89	(C) Plan received	HQ
Josephine	Merlin Landfill	3/15/89	3/15/89	(N) Plan received	HQ
Wallowa	Ant Flat Landfill	3/13/89	3/13/89	(N) Plan received	HQ
Klamath	Klamath Falls	3/27/89	3/27/89	(R) Geotechnical study rec'd	HQ
Morrow	Turner Landfill Landfill	3/30/89	3/30/89	(C) Closure plan received	HQ

* County *	Name of Facility	* Date * * Plans * * Rec'd. *	* Date of * * Last * * Action *	Type of Action and Status	* Location *
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Demolition Waste Sources - 2

Washington	Hillsboro Landfill	1/29/88	1/29/88	(N) Expansion plans received	
Washington	Lakeside Reclamation Landfill	3/23/89	3/23/89	(C) Hydro report received	HQ

Industrial Waste Sources - 11

Coos	Rogge Lumber	7/28/86	6/18/87	(C) Additional info. submitted to revise previous application.	HQ
Douglas	Louisiana-Pacific Round Prarie	9/30/87	9/30/87	(R) Operational plan	HQ
Clatsop	Nygaard Logging	11/17/87	11/17/87	(N) Plan received	HQ
Columbia	Boise Cascade St. Helens	4/6/88	4/6/88	(N) As built plans received.	HQ
Douglas	Sun Studs	6/20/88	6/20/88	(R) Plans received	HQ
Douglas	Sun Studs	7/1/88	7/1/88	(R) Operational/groundwater plans received	HQ
Douglas	IP, Gardiner	8/16/88	8/16/88	(N) Plans received	HQ
Yamhill	Boise Cascade (Willamina)	9/1/88	9/1/88	(N) Plans received	
Grant	Blue Mountain Forest Products	9/7/88	9/7/88	(N) Plans received	HQ
Marion	OWTD - Silverton Forest Products	12/19/88	12/19/88	(C) GW study received	HQ
Yamhill	Boise Cascade-Willamina	1/9/89	1/9/89	( ) Plans received	HQ

* County *	Name of Facility	* Date Plans Rec'd. *	* Date of Last Action *	Type of Action and Status	* Location *
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Sewage Sludge Sources - 2

Coos	Beaver Hill Lagoons	11/21/86	12/26/86	(N) Add'l. info. rec'd.	HQ
Coos	Hempstead Sludge Lagoons	9/14/87	9/14/87	(C) Plan received	HQ

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division  
(Reporting Unit)

March 1989  
(Month and Year)

SUMMARY OF SOLID WASTE PERMIT ACTIONS

	Permit Actions Received		Permit Actions Completed		Permit Actions Pending	Sites Under Permits	Sites Reqr'g Permits
	Month	FY	Month	FY			
<u>General Refuse</u>							
New	-	3	2	4	4		
Closures	-	3	-	4	4		
Renewals	-	2	-	3	12		
Modifications	-	16	0	17	0		
Total	0	24	2	28	20	180	180
<u>Demolition</u>							
New	-	1	0	1	0		
Closures	-	-	-	-	-		
Renewals	-	-	-	-	1		
Modifications	-	2	-	2	1		
Total	0	3	0	3	2	11	11
<u>Industrial</u>							
New	0	1	0	2	5		
Closures	-	-	-	-	1		
Renewals	-	1	1	8	4		
Modifications	-	8	-	8	-		
Total	0	10	1	18	10	107	107
<u>Sludge Disposal</u>							
New	-	1	-	1	1		
Closures	-	-	-	-	1		
Renewals	-	-	-	-	-		
Modifications	-	1	-	-	-		
Total	0	2	0	1	2	18	18
Total Solid Waste	1	39	3	50	34	315	315

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division  
(Reporting Unit)

March 1989  
(Month and Year)

PERMIT ACTIONS COMPLETED

* County	* Name of Source/Project	* Date of	* Action	*
*	* /Site and Type of Same	* Action	*	*
*	*	*	*	*

General Refuse

Morrow            Finley Butte Landfill            3/2/89            (N) Permit Issued -----

Washington       Hillsboro TS                        3/9/89            (N) Permit Issued

Industrial

Douglas            Glide Lumber Products            3/3/89            (R) Permit Issued

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division  
(Reporting Unit)

March 1989  
(Month and Year)

PERMIT ACTIONS PENDING - 34

* County *	* Name of Facility *	* Date Appl. Rec'd. *	* Date of Last Action *	* Type of Action and Status *	* Location *
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Municipal Waste Sources - 20

Clackamas	Rossmans	3/14/84	2/11/87	(C) Applicant review (second draft)	HQ/RO
Baker	Haines	1/30/85	6/20/85	(R) Applicant review	HQ
Curry	Wridge Creek	2/19/86	9/2/86	(R) Draft received	HQ
Umatilla	Rahn's (Athena)	5/16/86	5/16/86	(R) Application filed	RO
Marion	Woodburn Lndfl.	9/22/86	3/3/89	(R) Draft to applicant	HQ
Coos	Bandon Landfill	1/20/87	1/7/88	(R) Draft received	HQ
Deschutes	Negus Landfill	2/4/87	11/16/87	(R) Applicant review	HQ
Douglas	Reedsport Lndfl.	5/7/87	1/11/88	(R) Draft received	HQ
Lane	Florence Landfill	9/21/87	1/12/88	(R) Draft received	HQ
Douglas	Roseburg Landfill	10/21/87	12/21/87	(R) Draft received	
Curry	Port Orford Lndfl.	12/14/87	8/18/88	(R) Applicant review	HQ
Multnomah	Riedel Composting	5/5/88	5/5/88	(N) Application received	RO/HQ
Coos	Les' Sanitary Service TS	6/30/88	8/19/88	(N) Draft received	HQ
Malheur	Brogan-Jameson	7/1/88	7/1/88	(C) Application received	RO
Malheur	Brogan TS	7/1/88	1/23/89	(N) Draft received	HQ
Tillamook	Tillamook Landfill	8/16/88	8/16/88	(N) Application received	RO
Marion	Ogden Martin	10/11/88	3/3/89	(R) Draft to applicant	HQ

SB4968  
MAR.7S (5/79)

(A) = Amendment; (C) = Closure permit;  
(N) = New source; (R) = Renewal

Page 1

* County *	* Name of Facility *	* Date Appl. Rec'd. *	* Date of Last Action *	* Type of Action and Status *	* Location *
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Gilliam	Arlington Landfill Closure	11/14/88	11/14/88	(C) Closure application	HQ
Deschutes	Alfalfa Landfill Closure	12/19/88	12/19/88	(C) Application received	RO
Union	North Powder	12/20/88	12/20/88	(R) Application received	HQ

Demolition Waste Sources - 2

Coos	Bracelin/Yeager (Joe Ney)	3/28/86	8/11/88	(R) Public hearing held	HQ
Washington	Hillsboro Lndfl.	1/29/88	1/29/88	(A) Application received	HQ

Industrial Waste Sources - 10

Wallowa	Boise Cascade Joseph Mill	10/3/83	5/26/87	(R) Applicant comments received	HQ
Curry	South Coast Lbr.	7/18/86	7/18/86	(R) Application filed	RO
Baker	Ash Grove Cement West, Inc.	4/1/87	4/1/87	(N) Application received	RO
Klamath	Modoc Lumber Landfill	5/4/87	5/4/87	(R) Application filed	RO
Clatsop	Nygaard Logging	11/17/87	3/3/88	(N) Draft received	HQ
Wallowa	Sequoia Forest Ind.	11/25/87	11/25/87	(N) Application filed	RO
Douglas	Hayward Disp. Site	6/7/88	8/18/88	(R) Applicant review	HQ
Yamhill	Boise-Cascade (Willamina)	9/1/88	9/1/88	(N) Application received	HQ
Klamath	Modoc Lumber Lndfl.	1/6/89	1/6/89	(N) Application received	HQ
Clatsop	James River Wauna Mills	4/28/88	3/3/89	(C) Draft closure permit	HQ

* County *	Name of Facility	* Date * * Appl. * * Rec'd. *	* Date of * * Last * * Action *	Type of Action and Status	* Location *
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Sewage Sludge Sources - 2

Coos	Beaver Hill Lagoons	5/30/86	3/10/87	(N) Add'l. info. received (addition of waste oil facility)	HQ
Coos	Hempstead Sludge Lagoons	9/14/87	9/14/87	(C) Application received	HQ/RO



DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Hazardous and Solid Waste Division  
(Reporting Unit)

March 1989  
(Month and Year)

SUMMARY OF HAZARDOUS WASTE PROGRAM ACTIVITIES

PERMITS

	ISSUED		PLANNED
	No. This Month	No. Fiscal Year to Date (FYTD)	No. in FY 89
Treatment	0	0	0
Storage	0	0	1
Disposal	0	0	0
Post-Closure	0	0	3

INSPECTIONS

	COMPLETED		PLANNED
	No. This Month	No. FYTD	No. in FY 89
Generator	1	33	14 <sup>1</sup>
TSD	2	8	16 <sup>1</sup>

CLOSURES

	PUBLIC NOTICES			CERTIFICATIONS ACCEPTED		
	No. This Month	FYTD No.	Planned in FY 89	No. This Month	No. FYTD	No. Planned in FY 89
Treatment	0	0	0	0	0	0
Storage	1	1	2 <sup>2</sup>	0	0	4
Disposal	0 <sup>3</sup>	0 <sup>3</sup>	1	0	1	1

<sup>1</sup> SEA commitment only.

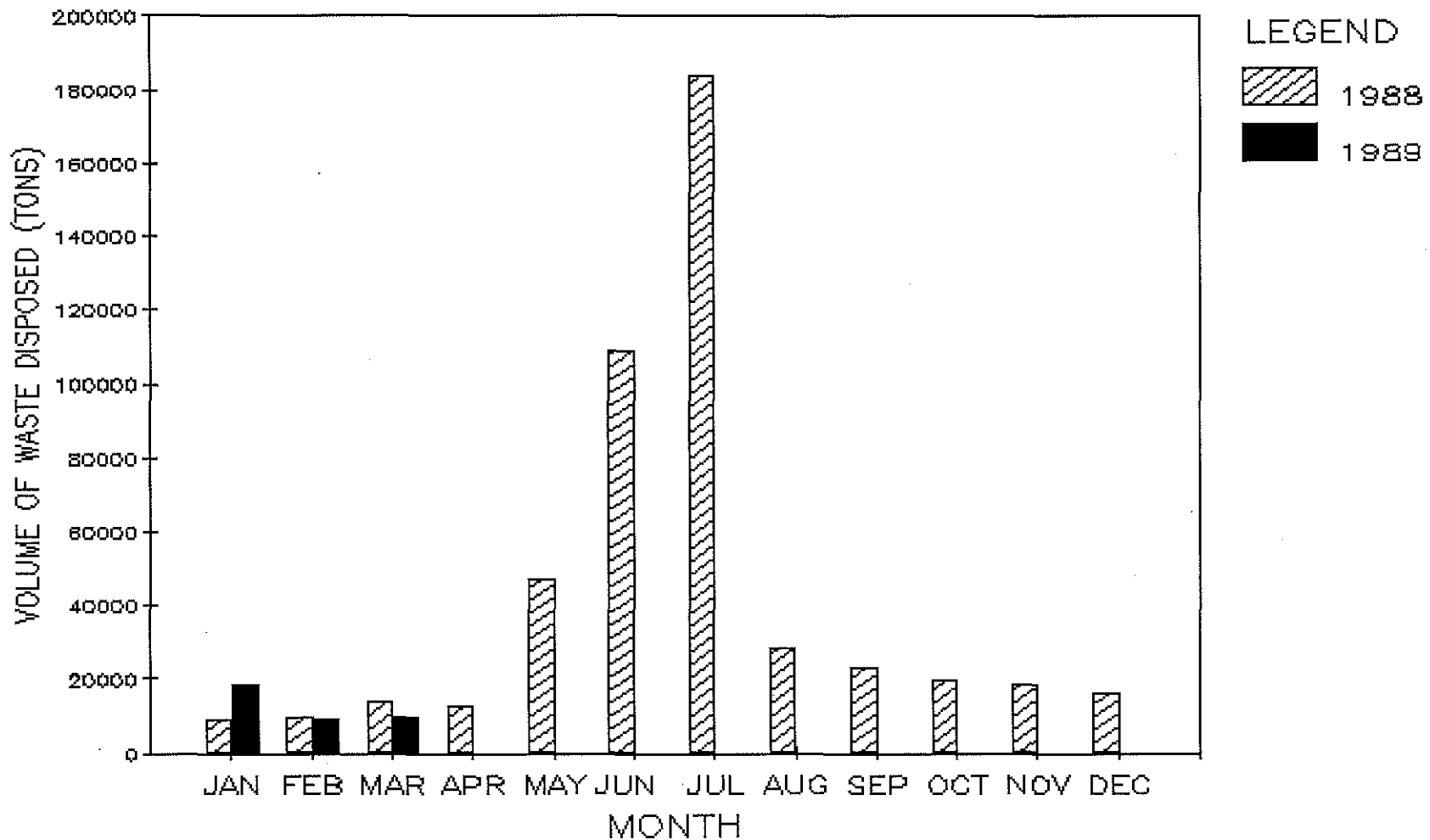
<sup>2</sup> Commitment adjusted from 3 to 2.

<sup>3</sup> Public notices corrected from 1 to 0.

# HAZARDOUS WASTE DISPOSAL CHEM-SECURITY SYSTEMS, INC.

Arlington, Oregon

## 1988 - 1989 Waste Disposal Volume Comparison



CHEM-SECURITY SYSTEMS, INC.  
Arlington, Oregon

1989

HAZARDOUS WASTE ORIGINATION SOURCES

MONTHLY QUANTITY OF WASTE DISPOSED (TONS)<sup>1</sup>

<u>Waste Source</u>	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>YTD</u>
Oregon	2,662	530	1,695										4,887
Washington	14,233	7,106	5,974										27,313
Alaska	1,148	1,889	1,826										4,863
Idaho	14	29	32										75
CSSI <sup>2</sup>	752	267	799										1,818
Montana	-	18	-										18
TOTALS	18,809	9,839	10,326										38,974

Footnotes

1 Quantity of waste (both RCRA and non-RCRA) received at the facility.

2 Waste generated on-site by CSSI.

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DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

<p>Noise Control Program (Reporting Unit)</p>	<p>March, 1989 (Month and Year)</p>
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SUMMARY OF NOISE CONTROL ACTIONS

Source Category	New Actions Initiated		Final Actions Completed		Actions Pending	
	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>FY</u>	<u>Mo</u>	<u>Last Mo</u>
Industrial/ Commercial	12	79	12	124	144	144
Airports			0	9	1	1

DEPARTMENT OF ENVIRONMENTAL QUALITY

MONTHLY ACTIVITY REPORT

Noise Control Program (Reporting Unit)	March, 1989 (Month and Year)
---	---------------------------------

FINAL NOISE CONTROL ACTIONS

County	* * Name of Source and Location	* * Date	* * Action
Multnomah	Sunset Fuel Company, Portland	3/89	In compliance
Linn	Albany Sewage Treatment Plant Albany	3/89	In compliance
Marion	Woodburn Fertilizer Company, Independence	3/89	In compliance
Lane	Miller Dehydrater Company, Eugene	3/89	Referred to the City of Eugene
Coos	Weyerhaeuser, Highway #101 North Bend	3/89	In compliance
Douglas	Murphy Plywood Company, Sutherlin	3/89	In compliance
Jackson	Norco Tie & Beam, Phoenix	3/89	In compliance
Jackson	Special Products of Oregon, Phoenix	3/89	No violation
Hood River	Gorge Lumber Company, Cascade Locks	3/89	In compliance
Wasco	Kerr-McGee/Union Pacific Creosoting, The Dalles	3/89	In compliance
Umatilla	Orval McCormmach Grain Storage Facility, Pendleton	3/89	In compliance
Union	Boise Cascade Corporation, Particle Board Division, Island City	3/89	In compliance

CIVIL PENALTY ASSESSMENTS

DEPARTMENT OF ENVIRONMENTAL QUALITY  
1989

CIVIL PENALTIES ASSESSED DURING MONTH OF MARCH, 1989:

<u>Name and Location of Violation</u>	<u>Case No. &amp; Type of Violation</u>	<u>Date Issued</u>	<u>Amount</u>	<u>Status</u>
Edward Edmond Salem, Oregon	AQOB-WVR-89-24 Open burned construc- tion waste, tires and asphalt roofing.	3/2/89	\$800	Paid 3/9/89.
Cascade Steel Rolling Mills, Inc. McMinnville, Oregon	HW-WVR-89-12 Multiple violations of the hazardous waste management regulations.	3/6/89	\$11,700	Paid 3/23/89.
Port of Astoria Astoria, Oregon	AQOB-NWR-89-07 Open burned several piles of demolition debris including pilings treated with creosote.	3/21/89	\$3,000	Contested 4/12/89.
George N. Lammi dba/Lammi Sand and Rock Products Clatskanie, Oregon	WQ-NWR-89-08 NPDES permit viola- tions; failure to recirculate waste waters; excessive turbidity; failure to submit monitoring reports.	3/21/89	\$11,100	Contested 4/10/89.
Smurfit Newsprint Corporation West Linn, Oregon	AQ-NWR-89-60 Odors from a waste- water treatment lagoon contributed to a condition of air pollution; 4 days of violation.	3/22/89	\$16,800	Contested 4/11/89.
Holland Dairy, Inc. Klamath County	WQ-CR-89-51 Discharged animal waste into the Lost River.	3/28/89	\$8,000	Contested 4/17/89.
McInnis Enterprises, Ltd. Portland, Oregon	56-WQ-NWR-83-79 EQC Stipulation and Consent Order (regard- ing the disposal of septage into the Columbia Slough in 1983).	3/11/88	\$1,805 quar- terly	Paid 4/13/89.

GB8437

March, 1989  
DEQ/EQC Contested Case Log

<u>ACTIONS</u>	<u>LAST MONTH</u>	<u>PRESENT</u>
Preliminary Issues	2	4
Discovery	1	0
Settlement Action	10	12
Hearing to be scheduled	0	0
Department reviewing penalty	0	0
Hearing scheduled	3	3
HO's Decision Due	1	1
Briefing	0	0
Inactive	<u>2</u>	<u>1</u>
SUBTOTAL of cases before hearings officer	19	22
HO's Decision Out/Option for EQC Appeal	2	0
Appealed to EQC	0	0
EQC Appeal Complete/Option for Court Review	0	0
Court Review Option Taken	0	0
Case Closed	<u>3</u>	<u>1</u>
TOTAL Cases	24	23

15-AQ-NWR-87-178      15th Hearing Section case in 1987 involving Air Quality Division violation in Northwest Region jurisdiction in 1987; 178th enforcement action in the Department in 1987.

§                      Civil Penalty Amount

ACDP                Air Contaminant Discharge Permit

AG1                 Attorney General 1

AQ                  Air Quality Division

AQOB                Air Quality, Open Burning

CR                  Central Region

DEC Date            Date of either a proposed decision of hearings officer or a decision by Commission

ER                  Eastern Region

FB                  Field Burning

HW                  Hazardous Waste

HSW                Hazardous and Solid Waste Division

Hrng Rfrl            Date when Enforcement Section requests Hearing Section schedule a hearing

Hrngs                Hearings Section

NP                  Noise Pollution

NPDES                National Pollutant Discharge Elimination System wastewater discharge permit

NWR                 Northwest Region

OSS                 On-Site Sewage Section

P                    Litigation over permit or its conditions

Prtys                All parties involved

Rem Order          Remedial Action Order

Resp Code          Source of next expected activity in case

SS                  Subsurface Sewage (now OSS)

SW                  Solid Waste Division

SWR                 Southwest Region

T                    Litigation over tax credit matter

Transcr             Transcript being made of case

Underlining        New status or new case since last month's contested case log

WQ                  Water Quality Division

WVR                 Willamette Valley Region

CONTES.B

March, 1989  
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
WAH CHANG	04/78	04/78		Prtys	16-P-WQ-WVR-78-2849-J NPDES Permit Modification	New permit under negotiation. May resolve contested issues.
WAH CHANG	04/78	04/78		Prtys	03-P-WQ-WVR-78-2012-J NPDES Permit Modification	New permit under negotiation. May resolve contested issues.
DANT & RUSSELL, INC.	05/31/85	05/31/85	03/21/86	Prtys	15-HW-NWR-85-60 Hazardous waste disposal Civil Penalty of \$2,500	Settlement agreement delayed pending resolution of federal court proceedings.
A-37 BRAZIER FOREST PRODUCTS	11/22/85	12/12/85	02/10/86	DEQ	23-HSW-85-60 Declaratory Ruling	Tentative settlement reached. Department of Justice to prepare order for EQC consideration.
CSSI	3/31/88	4/19/88		Prtys	Permit 089-452-353	<u>Pre hearing conference scheduled.</u>
GLENEDEN BRICK & TILE WORKS	9/15/88		1/18/89	Prtys	AQ-WS-88-70 \$1,500 Civil Penalty	Settlement action.
JOHN BOWERS	9/19/88		1/11/89	Prtys	AQOB-CR-88-58 \$1,500 Civil Penalty	Settlement action.
CITY OF SALEM	9/26/88		<u>4/18/89</u>	Prtys	Department Order	<u>Hearing rescheduled.</u>
IRVIN HERMENS	9/27/88		1/24/89	Prtys	WQ-WVR-88-61A \$2,500 Civil Penalty and-62B, Department Order	Settlement action.



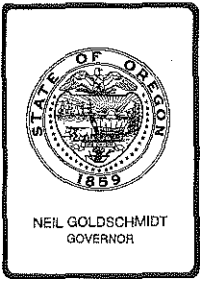
March, 1989  
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrl	Hrng Date	Resp Code	Case Type & No.	Case Status
ARIE JONGANEEL dba A.J. Dairy	10/3/88		1/20/89	Prtys	WQ-WVR-88-73A \$2,500 Civil Penalty and -73B, Department Order	Settlement action.
HARBOR OIL			2/03/89	Prtys	Permit 1300-J Permit Revocation	Settlement action.
{ENVIRONMENTAL {PAGIFIG -GGRP-			1/30/89	<del>Prtys</del>	<del>HW-WVR-88-88} Compliance Order}</del>	Order of Dismissal issued 3/7/89. <u>Case Closed.</u>
A 38 Magar E. Magar dba Riverwood , Mobile Home Park	12/20/88 12/23/88	12/28/88 12/28/88	3/1/89	Prtys	WQ-NWR-88-98 Civil Penalty	Settlement action.
Aart & Sheri Falk	1/5/89	1/6/89	2/17/89	Prtys	AQ-FB-88-115	Settlement action.
Ken Kuderer	1/5/89	1/6/89	3/8/89	Hrgs	AQ-FB-88-117	Decision due.
Air Rite Control, Inc.	1/9/89	1/11/89	4/10/89	Prtys	AQ-AB-NWR-88-85 \$2,600 Civil Penalty	Settlement action.
Rahenkamp Wrecking, Inc.	1/18/89	1/23/89	4/14/89	Prtys	AQ-AB-SWR-88-76 \$3,500 Civil Penalty	Hearing rescheduled.
Larry L. Krenik	2/6/89	2/8/89		Resp	SW-WT-89-20 Order of Abatement	Timeliness of request for review challenged by DEQ.
Safety-Kleen Corp.	2/13/89	2/13/89		Prtys	HW-WVR-89-02 Compliance Order \$11,800 in civil penalties.	Settlement action.

March, 1989  
DEQ/EQC Contested Case Log

Pet/Resp Name	Hrng Rqst	Hrng Rfrrl	Hrng Date	Resp Code	Case Type & No.	Case Status
Ron Graham	2/2/89	2/21/89		Resp	Challenge of agency data collection activity.	Preliminary issues.
Chem-Security Systems, Inc.	3/7/89	3/8/89	<u>5/11/89</u>	Prtys	HW-ER-89-18 Compliance Order and \$19,400 in civil penalties.	<u>Hearing scheduled.</u>
<u>Richard G. &amp; and Anne M. Schultz</u>	<u>3/16/89</u>	<u>3/27/89</u>		<u>Prtys</u>	<u>SW-WT 89 41</u>	<u>Settlement negotiations.</u>
<u>David White</u>	<u>3/3/89</u>	<u>4/6/89</u>		<u>Prtys</u>	<u>NW-WT</u> <u>Permit denial</u>	<u>Preliminary issues.</u>

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## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204    PHONE (503) 29-5696

### MEMORANDUM

To: Environmental Quality Commission

From: Director *Fred Hansen*

Subject: Agenda Item C, June 2, 1989, EQC Meeting  
Proposed Civil Penalty Settlement Agreements

### Background

Oregon Revised Statute 468.130(3) provides that any civil penalty may be remitted or mitigated upon such terms and conditions as the Environmental Quality Commission considers proper and consistent with the public health and safety. The statute further provides that the Commission may by rule delegate to the Department, upon such conditions as deemed necessary, all or part of the authority to remit or mitigate civil penalties. Oregon Administrative Rule 340-12-047 authorizes the Director of the Department to seek to compromise or settle any unpaid civil penalty which the Director deems appropriate. Any compromise or settlement executed by the Director shall not be final until approved by the Commission.

The following proposed settlement agreements are attached for the Commission's consideration and approval:

Case Numbers WQ-WVR-88-61A & B, Irvin Hermens  
Case Number AQAB-NWR-88-85, Air Rite Control, Inc.  
Case Number AQOB-CR-88-58, John Bowers  
Case Number AQ-WS-88-70, Gleneden Brick & Tile Works, Inc.  
Case Number WQ-NWR-88-98, Magar E. Magar, dba/Riverwood Mobile Home Park

Fred Hansen

GB8231M



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission

From: Director *Fred Hansen*  
*KP*

Subject: Agenda Item C, June 2, 1989, EQC Meeting

Proposed Civil Penalty Settlement Agreements

### Background

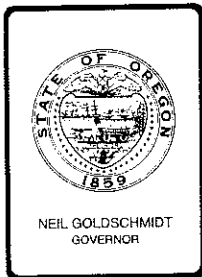
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- Case Number AQ-WS-88-70, Gleneden Brick & Tile Works, Inc.
- Case Number WQ-NWR-88-98, Magar E. Magar, dba/Riverwood Mobile Home Park

Fred Hansen

GB8231M



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

**TO:** Environmental Quality Commission

**FROM:** Director

**SUBJECT:** Request for Approval of Settlement Agreement in Case No.  
WQ-WVR-88-61A & B, Irvin Hermens

Respondent, Irvin Hermens, owns property on which a hog farm, a confined animal feeding operation, is operated in Yamhill Oregon. On September 8, 1988, the Department assessed Respondent a civil penalty of \$2,500 for discharging hog manure into Roland Creek, a tributary of the North Yamhill River. The violations resulted because of inadequacies in the farm's animal waste management system. The penalty was aggravated to \$2,500 because of the effect the discharge had on the creek. A Department Order accompanied the civil penalty assessment requiring Respondent to submit plans and construct adequate waste management facilities for the farm.

On September 28, 1988, Respondent filed a request for a hearing before the Environmental Quality Commission. Respondent alleged that the effect of the discharge was not as severe as the Department had stated. Respondent also stated that he was working with government agencies in order resolve the violation and he had completed many of the requirements contained in the Department Order.

On December 8, 1988, Respondent met with the Department. Respondent provided the Department with information concerning the actions Respondent had taken to improve the animal waste management system at the farm, including the completion of a Department approved storage lagoon and the purchase of a solids separator.

On February 21, 1989, Respondent met with the Department to discuss Respondent's financial condition. Respondent provided the Department with documents outlining Respondent's current financial condition including loan statements, invoices for repairs and improvements to the animal waste management system, wage statements and federal and state tax returns.

Respondent has signed the attached Stipulation and Final Order. The Stipulation and Final Order requires Respondent to pay a \$650 civil penalty in monthly payments of \$50 and suspends the remainder \$1,850 of the civil penalty as long as Respondent does not have any water quality violations for

a period of one year from the date of the Order. I am satisfied that Respondent's cooperativeness in resolving the violations, and his financial condition, justify a suspension of \$1,850 of the civil penalty and that such a suspension is protective of public health and the environment. Should Respondent have any further violations in the next year, the suspended portion of the penalty will be automatically reinstated. I recommend Commission approval. If you agree, please sign and date the attached Stipulation and Final Order which requires that no further discharges occur, the completion of an adequate animal waste storage system and payment of \$650 of the civil penalty.

Fred Hansen

Attachments  
Yone C. McNally  
229-5152  
April 27, 1989



1 Respondent waives any right to contest this Stipulation and Final Order.

2 7. Respondent hereby waives contested case hearings on Case Nos. WQ-  
3 WVR-88-61A and 61B.

4 Now, THEREFORE, The Parties agree to entry of the following Final  
5 Order:

6 A. By May 15, 1989, Respondent shall complete the installation and  
7 begin the operation of the solids separator described in Respondent's Notice  
8 of Intent to Construct and Request for Construction Approval and Preliminary  
9 Certification, SWQ No. 953, as approved by DEQ on September 8, 1988.

10 B. Respondent shall pay to DEQ the sum of six hundred fifty dollars  
11 (\$650) in partial satisfaction of the twenty-five hundred dollar (\$2,500)  
12 penalty assessed in the September 8, 1988 Notice of Assessment of Civil  
13 Penalty. Respondent shall pay the six hundred fifty dollar (\$650) sum plus  
14 nine percent (9%) per annum interest on the unpaid balance, at a rate of not  
15 less than fifty dollars (\$50) a month, commencing on June 15, 1989, and  
16 continuing on or before the 15th day of each month thereafter until  
17 July 15, 1990. If the six hundred fifty dollars (\$650) plus interest is not  
18 paid in full by July 15, 1990, DEQ shall initiate collection action.  
19 Payment of the remaining one thousand eight hundred fifty dollars (\$1,850)  
20 of the assessed penalty shall be suspended and waived upon the condition  
21 that Respondent not violate any Oregon water quality laws or regulations, or  
22 any provision of this Order for a period of one year from the date of entry  
23 of this Order.

24 C. Finding that the DEQ and the Commission have satisfied all the  
25 requirements of law and the mitigation herein is consistent with public health  
26 and safety and is in the public interest in accordance with ORS 468.130(3).



1 D. Nothing herein shall constitute a waiver of DEQ or Commission  
2 authority to take any actions to enforce this Order or in response to future  
3 violations as provided by law.

4  
5 RESPONDENT

6 Sept. 11, 89  
7 Date

Irvin Hermens  
8 Irvin Hermens

9 DEPARTMENT OF ENVIRONMENTAL QUALITY

10 \_\_\_\_\_  
11 Date

\_\_\_\_\_   
12 Fred Hansen  
13 Director

14 FINAL ORDER

15 IT IS SO ORDERED:

16 ENVIRONMENTAL QUALITY COMMISSION

17 \_\_\_\_\_  
18 Date

\_\_\_\_\_   
19 William P. Hutchison, Jr., Chairman

20 \_\_\_\_\_  
21 Date

\_\_\_\_\_   
22 Wallace B. Brill, Member

23 \_\_\_\_\_  
24 Date

\_\_\_\_\_   
25 Emery N. Castle, Member

26 \_\_\_\_\_  
Date

\_\_\_\_\_   
Genevieve Pisarski Sage, Member

\_\_\_\_\_   
Date

\_\_\_\_\_   
William Wessinger, Member



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

**TO:** Environmental Quality Commission

**FROM:** Director

**SUBJECT:** Request for Approval of Settlement Agreement in Case No. AQAB-NWR-88-85, Air Rite Control, Inc.

Respondent, Air Rite Control, Inc., is a heating, ventilation and air conditioning contractor in the Portland area. On December 23, 1988, the Department assessed a \$2,300 civil penalty against Respondent for asbestos work practice violations, including the dry removal and open storage of asbestos containing waste material at the Portland Medical Center.

On January 11, 1989, Respondent filed a request for a hearing before the Environmental Quality Commission. Respondent alleged that it was unaware of the existence of asbestos containing material in the building and that the open storage of the material was caused by another contractor.

On February 15, 1989, the Department met with Respondent. Respondent explained how the building management represented that the area in which Respondent worked was certified asbestos free. Respondent also explained that the building management had arranged with another contractor to place the waste from the renovation into a dumpster outside. Respondent requested that the penalty be mitigated to \$1,000 on the basis that it was not responsible for the open storage violation. The Department agreed that the Respondent was not responsible for this violation.

Respondent has signed the Stipulation and Final Order agreeing to pay \$1,000. I believe that the settlement agreement is satisfactory and protects the public health and the environment. I recommend Commission approval. If you agree, please sign and date the attached Stipulation and Final Order which mitigates the \$2,300 civil penalty to \$1,000.

Fred Hansen

Attachments  
Yone C. McNally  
229-5152  
April 27, 1989



1 II. STIPULATIONS

2 1. The Department amends the Notice by deleting:

3 a. Paragraph IIB which states: Respondent violated OAR 340-25-  
4 465(15) in that Respondent openly stored friable asbestos  
5 material, specifically duct tape;

6 b. Paragraph VIIIB which states: Respondent failed to  
7 containerize in leak-tight containers friable asbestos  
8 material for the purposes of storage and disposal in  
9 violation of OAR 340-25-465(13)(b)(B); and

10 c. Paragraph VIIIC which states: Respondent failed to label  
11 containers used for the storage and disposal of friable  
12 asbestos material in violation of OAR 340-25-465(13)(d).

13 2. The Department amends the Mitigating and Aggravating Factors  
14 incorporated in Paragraph IV of the Notice by deleting the reference to  
15 Respondent's "gross negligence" under item 6 and the final paragraph on that  
16 page.

17 3. By virtue of entering this Stipulation and Final Order, Respondent  
18 does not admit any fact or violation alleged in the Notice or Aggravating  
19 and Mitigating Factors, dated December 23, 1988, or in the cover letter  
20 accompanying the Notice.

21 4. For the purpose of resolving this matter, Respondent shall pay the  
22 Department \$1,000 and agree to dismissal of the contested case hearing.

23 III. ORDER

24 The Environmental Quality Commission shall enter a Final Order:

25 1. Finding that the Department and Commission have satisfied all the  
26 requirements of law in resolving this matter; and

1 2. Dismissing the pending contested case hearing.

RESPONDENT

2  
3  
4 4/9/89  
Date

Thomas D Shoot

Name THOMAS D SHOBT

Title Gradent

7  
8 4-4-89  
Date

Approved James R Watts  
Attorney for Respondent

DEPARTMENT OF ENVIRONMENTAL QUALITY

11  
12 \_\_\_\_\_  
Date

\_\_\_\_\_  
Fred Hansen  
Director

13 FINAL ORDER

14 IT IS SO ORDERED:

15 ENVIRONMENTAL QUALITY COMMISSION

17 \_\_\_\_\_  
Date

\_\_\_\_\_  
William P. Hutchison, Jr., Chairman

19 \_\_\_\_\_  
Date

\_\_\_\_\_  
Wallace B. Brill, Member

21 \_\_\_\_\_  
Date

\_\_\_\_\_  
Emery N. Castle, Member

23 \_\_\_\_\_  
Date

\_\_\_\_\_  
Genevieve Pisarski Sage, Member

25 \_\_\_\_\_  
Date

\_\_\_\_\_  
William Wessinger, Member



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission

From: Fred Hansen, Director

Subject: Proposed Settlement Agreement  
DEQ v. John Bowers  
Case No. AQOB-CR-88-58

On September 1, 1988, the Department assessed a \$1500 civil penalty against John Bowers (Respondent) for causing or allowing commercial/industrial waste to be open burned on Respondent's property located within three miles of the City of Klamath Falls. Respondent contested the civil penalty on September 16, 1988.

During subsequent discussions and negotiations, the Department learned that prior to the open burning incident, Respondent's attorney advised him that open burning was regulated by local government. Relying on that advice, Respondent obtained a fire permit from the local fire department, and proceeded to burn the waste.

Attorneys for the Department and Respondent have negotiated the proposed settlement agreement which is set forth in the attached Stipulation and Final Order. Under terms of the proposed settlement agreement, Respondent agrees to pay a \$750 civil penalty; and the Commission agrees to suspend the remaining \$750 on the condition that Respondent has no additional air quality violations for a period of one year.

The proposed settlement agreement is protective of public health and the environment, and I recommend Commission approval. If you agree, please sign and date the attached Stipulation and Final Order.

Fred Hansen

Attachment  
Larry M. Schurr  
229-6932  
May 2, 1989

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL	)	
QUALITY, OF THE STATE OF	)	
OREGON,	)	No. AQOB-CR-88-58
	)	
Department	)	STIPULATION AND
	)	FINAL ORDER
v.	)	
	)	KLAMATH COUNTY
JOHN BOWERS,	)	
	)	
Respondent.	)	

WHEREAS:

1. On September 1, 1988, the Department of Environmental Quality (Department) filed with the Environmental Quality Commission (Commission) a Notice of Assessment of Civil Penalty in Case No. AQOB-CR-88-58m against John Bowers (Respondent), assessing a \$1,500 civil penalty upon Respondent.

2. On September 16, 1988, the Respondent filed a request for hearing and answer to the Notice referred to in Paragraph 1 above.

3. The parties wish to compromise and settle the civil penalty referred to in Paragraph 1 above on the following terms.

NOW THEREFORE, in consideration of the mutual covenants and agreements of the parties hereto, it is stipulated and agreed that:

I

Respondent hereby waives any and all objections it may have: to the form, content, manner of service and timeliness of the Notice referred to in Paragraph 1 above; to a contested

case hearing thereon and judicial review, thereof; and to service of a copy of this stipulated final order, which order shall be effective upon signing by or on behalf of the Commission.

## II

Respondent admits each and every fact and violation alleged in the Notice referred to in Paragraph 1 above.

## III

Subject to approval by the Commission, the parties agree to a \$1,500 civil penalty of which Respondent shall remit to DEQ the sum of \$750 in partial satisfaction of the Assessment. Payment of the remaining \$750 shall be suspended by the Commission and waived upon the condition that Respondent not violate any Oregon air quality laws or regulations for a period of one year from the date of entry of this Order. In the event of such a violation within the one year period, Respondent shall pay the suspended portion of the penalty, and shall be subject to such additional penalties and sanctions as are provided by law. Nothing herein shall constitute a waiver of DEQ or Commission authority to take any actions to enforce this Order or in response to future violations.

## IV

The Department hereby waives its claim to interest on the penalty from the date of Notice referred to in Paragraph 1 above through the date which the order is signed below.



The Commission shall enter a final order:

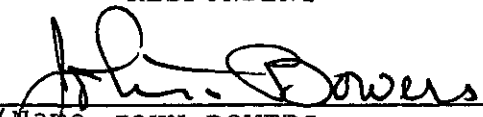
A. Finding that each and every fact and violation alleged in the Notice referred to in Paragraph 1 above occurred.

B. Imposing upon Respondent a civil penalty of \$1,500 for the violation cited in the Notice referred to in Paragraph 1 above subject to the suspension and waiver provisions of Paragraph III above, plus interest from the date which the order is signed below until paid.

C. Finding that the Department and Commission have satisfied all the requirements of law and the mitigation herein is consistent with public health and safety and is in the public interest.

RESPONDENT

4-19-89  
Date

  
\_\_\_\_\_  
(Name JOHN BOWERS)  
\_\_\_\_\_  
(Title PRES)

DEPARTMENT OF ENVIRONMENTAL QUALITY

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fred Hansen, Director

///  
///  
///  
///

FINAL ORDER

IT IS SO ORDERED:

ENVIRONMENTAL QUALITY COMMISSION

\_\_\_\_\_  
Date William P. Hutchison, Jr., Chairman

\_\_\_\_\_  
Date Wallace B. Brill, Member

\_\_\_\_\_  
Date Emery N. Castle, Member

\_\_\_\_\_  
Date Genevieve Pisarski Sage, Member

\_\_\_\_\_  
Date William Wessinger, Member

dld 6221H



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission  
From: Fred Hansen, Director  
Subject: Proposed Settlement Agreement  
DEQ v. Gleneden Brick & Tile Works, Inc.  
Case No. AQ-WS-88-70

On September 1, 1988, the Department assessed a \$1500 civil penalty against Gleneden Brick & Tile Works, Inc. (Respondent) for intentionally selling an uncertified woodstove. Respondent contested the civil penalty on September 12, 1988.

Shortly before the contested case hearing was to begin, the Department and Respondent agreed to discuss the issues in the case. Respondent argues that it had previously sold the stove in question to a private party prior to the July 1, 1988 change in woodstove emission standards. Respondent claims that it was holding the stove until the private party obtained permission from her landlord to replace the existing woodstove in her rental house. The Department acknowledges that at the time of the violation, Respondent apparently telephoned the private party to obtain her release, so that Respondent could "re-sell" the stove.

Respondent feels strongly that it committed no violation. Respondent also claims financial hardship. The Department's case depends on proving an intentional violation.

After further discussion and negotiation, the Department and Respondent reached the proposed settlement agreement which is set forth in the attached Stipulation and Final Order. Under terms of the proposed settlement agreement, Respondent agrees to pay a \$750 civil penalty, and to settle the contested case as a disputed claim without admitting any violation.

The proposed settlement agreement is protective of public health and the environment, and I recommend Commission approval. If you agree, please sign and date the attached Stipulation and Final Order.

Fred Hansen

Attachment  
Larry M. Schurr  
229-6932  
May 2, 1989

1                                   BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
2                                   OF THE STATE OF OREGON

3 DEPARTMENT OF ENVIRONMENTAL QUALITY        )  
4 OF THE STATE OF OREGON,                    )  
  )  
5                                   Department,        )  
  )  
6                                   v.    )  
  )  
7    )  
8 GLENEDEN BRICK & TILE WORKS, INC.,        )  
an Oregon corporation,                        )  
  )  
9                                   Respondent.        )

10                                   WHEREAS:

11           1.    On September 1, 1988, the Department of Environmental Quality  
12 (Department) filed with the Environmental Quality Commission (Commission) a  
13 Notice of Assessment of Civil Penalty in Case No. AQ-WS-88-70, which  
14 assessed a \$1,500 civil penalty against Gleneden Brick & Tile Works, Inc.  
15 (Respondent).

16           2.    On September 12, 1988, Respondent filed a request for hearing and  
17 an Answer to the Notice referred to in Paragraph 1 above.

18           3.    The parties wish to stipulate and agree to settle the disputed  
19 claims and violations alleged in the Notice referred to in Paragraph 1, by  
20 stipulating to the entry of the following Final Order by the Commission.

21           4.    Respondent hereby waives any and all objections it may have: to  
22 the form, content, manner of service and timeliness of the Notice referred  
23 to in Paragraph 1 above; to a contested case hearing thereon and judicial  
24 review, thereof; and to service of a copy of this Stipulation and Final  
25 Order, which shall be effective upon signing by the Commission.

26    ///

1 STIPULATED FINAL ORDER:

2 The Commission shall enter a Final Order:

3 5. Requiring Respondent to pay a civil penalty of \$750 within 15 days  
4 of the effective date of this Final Order, as settlement and compromise of  
5 the disputed claims and violations alleged in the Notice referred to in  
6 Paragraph 1.

7 6. Finding that the Department and Commission have satisfied all  
8 requirements of law, and that settlement of this matter is consistent with  
9 public health and safety, and is in the public interest.

10  
11 RESPONDENT

12  
13  
14 Date 4-27-89

Blunden Group + Title  
(Name Blunden Group + Title)  
(Title pres)

15  
16  
17 DEPARTMENT OF ENVIRONMENTAL QUALITY

18  
19  
20 Date \_\_\_\_\_

\_\_\_\_\_  
Fred Hansen  
Director





## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

To: Environmental Quality Commission

From: Fred Hansen, Director

Subject: Proposed Settlement Agreement  
DEQ v. Magar E. Magar  
dba/Riverwood Mobile Home Park  
Case No. AQ-WS-88-70

On December 15, 1988, the Department assessed a total of \$1800 in civil penalties against Magar E. Magar, doing business as Riverwood Mobile Home Park (Respondent) for failing to monitor and/or report required parameter data as set forth in Respondent's National Pollutant Discharge Elimination System Permit. Respondent contested the civil penalty on December 23, 1988. Respondent also requested an informal settlement conference.

During several subsequent meetings with Respondent the Department learned that Respondent's sewage treatment plant was constructed without a port from which Respondent could physically obtain an influent sample. Failure to monitor influent pH accounted for half of Respondent's cited violations.

After further discussion and negotiation, the Department and Respondent reached the proposed settlement agreement which is set forth in the attached Stipulation and Final Order. Under terms of the proposed settlement agreement, Respondent agrees to install an influent monitoring/sampling port and a flow meter at the plant, and pay a \$900 civil penalty. The contested case is to be settled as a disputed claim, without any admission of violation.

The proposed settlement agreement is protective of public health and the environment, and I recommend Commission approval. If you agree, please sign and date the attached Stipulation and Final Order.

Fred Hansen

Attachment  
Larry M. Schurr  
229-6932  
May 2, 1989







1 not be limited in amount by this stipulated final order. Therefore, should  
2 Respondent commit any violation of this stipulated final order, Respondent  
3 hereby waives any rights it might then have to any and all ORS 468.125(1)  
4 advance notices prior to the assessment of civil penalties for any and all  
5 such violations of this stipulated final order.

6

7

RESPONDENT

8

9

10 \_\_\_\_\_  
Date

\_\_\_\_\_  
(Name \_\_\_\_\_)  
(Title \_\_\_\_\_)

11

12

13

DEPARTMENT OF ENVIRONMENTAL QUALITY

14

15

16 \_\_\_\_\_  
Date

\_\_\_\_\_  
Fred Hansen  
Director

17

18

19

20

21

22

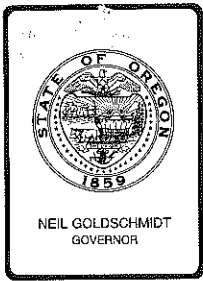
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## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: June 2, 1989  
Agenda Item: D  
Division: Management Services  
Section: Administration

**SUBJECT:**

Pollution Control Tax Credits

**PURPOSE:**

Approve and Deny Pollution Control Tax Credit Applications

**ACTION REQUESTED:**

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item \_\_\_ for Current Meeting
  - Other: (specify)
  
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment \_\_\_
  - Rulemaking Statements Attachment \_\_\_
  - Fiscal and Economic Impact Statement Attachment \_\_\_
  - Public Notice Attachment \_\_\_
  
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment \_\_\_
  
- Approve Department Recommendation
  - Variance Request Attachment \_\_\_
  - Exception to Rule Attachment \_\_\_
  - Informational Report Attachment \_\_\_
  - Other: (specify) Attachment A
    - Tax Credit Applications



Meeting Date: June 2, 1989  
Agenda Item: D  
Page 3

\_\_\_ Other Related Reports/Rules/Statutes:

X Supplemental Background Information

Attachment \_\_\_  
Attachment \_\_\_

The pollution control tax credit program has been in effect since 1968 to provide credits for installation of pollution control equipment. The statute requires Environmental Quality Commission (Commission) approval of the amount certified for pollution control.

**REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:**

1. None for the five applications recommended for approval.
2. Recommended denial on T-2191, Forrest Paint:

None related to supplemental information requested by the Commission.

**PROGRAM CONSIDERATIONS:**

None

**ALTERNATIVES CONSIDERED BY THE DEPARTMENT:**

1. None for five applications recommended for certification.
2. Forrest Paint T-2191. At the April 14, 1989 Commission meeting, the Commission directed staff to determine if there was a difference in professional judgement between the Salem and Portland offices as to the question and conditions of eligibility.

**DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:**

1. The Department (Department of Environmental Quality) recommends the Commission approve T-2124, T-2139, T-2158, T-2405, and T-2636 in that they comply with the Pollution Tax Credit Program's requirements and regulations.
2. The Department recommends the Commission deny T-2191, Forrest Paint, because the Department required the monitoring wells as part of clean up of past unauthorized practices which are not eligible for tax credit under state statute.

Meeting Date: June 2, 1989  
Agenda Item: D  
Page 4

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Yes

Note: Pollution Tax Credit Totals:

Proposed June 2, 1989 Totals

Air Quality	\$ 17,653
Water Quality	562,115
Hazardous/Solid Waste	-0-
Noise	-0-
	<hr/>
	\$ 579,768

1989 Calendar Year Totals (excluding June 2 totals)

Air Quality	\$1,092,574
Water Quality	5,693,004
Hazardous/Solid Waste	19,500
Noise	-0-
	<hr/>
	\$6,805,078

ISSUES FOR COMMISSION TO RESOLVE:

In its evaluation of the Department's recommendation of denial for T-2191 the Commission may want to consider the following:

1. Is the Department's interpretation of statutory and rule provisions governing unauthorized spills or releases accurate?

ORS 468.155

(2) "Pollution control facility" or "Facility" does not include: (f) Property installed, constructed, or used for cleanup of emergency spills or unauthorized releases, as defined by the commission.

OAR 340-16-010

(12)(a) "Spill or unauthorized release" means the discharge, deposit, injection, dumping, spillage, emitting, releasing, leakage or placing of oil, hazardous materials or other polluting substances into the air or into or on any land or waters of the state, as defined in ORS 468.700, except as authorized by a permit issued under ORS Chapter 454, 459, 468 or 469, ORS 466.005 to 466.385, 466.880 (1) and (2), 466.890 and 466.995 (1) and (2) or federal law while being stored or used for its intended purpose.

(b) For purposes of determining eligibility for tax credits under these rules, polluting substances released into the environment in conjunction with operation of a previously approved facility or activity where such facility or activity was operated in compliance with requirements imposed by the Department of the Federal Environmental Protection Agency and where the polluting substances which must now be cleaned up is determined by the Department to have been an unanticipated result of the approved facility or activity is not deemed to be a "spill or unauthorized release."

OAR 340-16-025

(3) "Pollution control facility" or "facility" does not include: (g) Property or facilities installed, constructed or used for cleanup of emergency spills or unauthorized releases. This includes any facility installed, constructed or used for cleanup after a spill or unauthorized release has occurred.

It is the Department's position, based on the above-stated rule and statute language, that spills or unauthorized releases that have occurred while operating in compliance with DEQ or EPA requirements would be eligible for tax credit. However, spills or releases which occurred outside of DEQ/EPA purview, and facilities not operating in compliance with legal requirements, would not be eligible.



Meeting Date: June 2, 1989  
Agenda Item: D  
Page 6

INTENDED FOLLOWUP ACTIONS:

Notify applicants of the Commission's actions.

Approved:

Section:

Roberta Young

Division:

Physcia Taylor

Director:

Physcia Taylor  
for

Report Prepared By: Roberta Young

Phone: 229-6408

Date Prepared: 6-3-89

ryoung  
june2  
6-15-89

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

---

1. Applicant

Willamette Industries, Inc.  
Attn: Mr. Don McNeill, Tax Manager  
3800 First Interstate Tower  
Portland, OR 97201

The applicant owns and operates a woodwaste landfill on Snow Peak Road, Lebanon, Oregon.

Application was made for tax credit for a water pollution control facility.

2. Description of Facility

The claimed facility is installation of three groundwater monitoring wells at the landfill and a related hydrologic suitability study done by a consulting engineering firm.

Claimed Facility Cost: \$8,898.55.

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

- a. The request for preliminary certification was filed June 16, 1986, less than 30 days before construction commenced on June 22, 1986.

However, according to the process provided in OAR 340-16-015(1)(b) the application was reviewed by DEQ staff and the applicant was notified that the application was complete and that construction could commence.

- b. The request for preliminary certification was approved before application for final certification was made.
- c. Construction of the facility was substantially completed on November 3, 1987 and the application for final certification was found to be complete on December 30, 1988, within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department to control water pollution.

The Department required Willamette Industries to perform a hydrologic suitability study and to install three groundwater monitoring wells as a pre-requisite to granting a Solid Waste Permit for landfilling of woodwastes from log-decking and ponding operations.

The monitoring wells are an "early-warning" system for detecting degradation of groundwater quality by water leaching out from the landfill. Water from the wells will be sampled and analyzed periodically for pollutants. If pollutants attributable to the landfill are found, remedial action can be taken promptly to protect the groundwater.

Prior to installation of the landfill, woodwastes were landfilled in a variety of sites that were not evaluated for suitability or had appropriate groundwater monitoring capability to detect and subsequently control contamination.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

The facility produces no savings and generates no income, thus it provides no return on the investment.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The method chosen is an accepted method for detection of groundwater pollution and assistance in the control of potential leachate from the landfill.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no savings from the facility.

The cost of maintaining and operating the facility is estimated at \$400.00 annually.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department to control water pollution
- c. The facility complies with DEQ statutes and rules and permit conditions.
- d. The portion of the facility cost that is properly allocable to pollution control is 100-percent.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$8,895.55 with 100-percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2124.

Jerry E. Turnbaugh  
IW\WG4383  
(503) 229-5374  
May 15, 1989

State of Oregon  
Department of Environmental Quality

**TAX RELIEF APPLICATION REVIEW REPORT**

---

1. Applicant

Roger De Jager  
3292 Wintel Road  
Jefferson, OR 97352

The applicant owns and operates a dairy farm in Jefferson, Oregon.

Application was made for tax credit for a water pollution control facility.

2. Description of Facility

The manure control facility consists of 5.6 acre foot lagoon, manure separator, and a 60 foot x 100 foot concrete solid waste storage area with curb.

Claimed Facility Cost: \$23,247.25\*  
(Of which \$13,500 is from a federal cost share)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

- a. The request for preliminary certification was filed June 27, 1986, more than 30 days before construction commenced on September 1, 1986.
- b. The request for preliminary certification was approved before application for final certification was made.
- c. Construction of the facility was substantially completed on June 30, 1987 and the application for final certification was found to be complete on November 11, 1987, within 2 years of substantial completion of the facility.

---

\*(Accountant's Certification was provided).

4. Evaluation of Application

- a. The facility is eligible because the principal purpose of the facility is to comply with a requirement imposed by the Department to control water pollution.

This control is accomplished by elimination of industrial waste as defined in ORS 468.700.

Prior to the construction of the control facility, manure was being collected in a small earthen lagoon. Because of the inadequate storage capacity, manure was pumped out of the lagoon and spread over land throughout the year, which resulted in these materials entering the Bashaw Creek. Soil and Water Conservation Division, Oregon Department of Agriculture received complaints from the area regarding the contaminated runoff entering the creek. After several unsuccessful attempts with the applicant to resolve the problem, it was referred to the Department for enforcement action. As a result of the enforcement referral, the applicant agreed to install the control system with the assistance of the Soil Conservation Service.

The new lagoon allows for more storage capacity of animal manure during the wet weather conditions. The application of manure to land during the drier summer months has greatly reduced contamination of field runoff.

Note that the applicant was advised of how the Department of Revenue interprets the federal cost share. Because of the large amount of federal cost share, there likely will be no tax credit benefit.

- b. Eligible Cost Findings.

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no return on investment for this facility. Prior to the installation of the facility the collected manure was

spread on land. The timing of the land application can now be better controlled to minimize contamination of runoff.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The method chosen is the accepted method for control of manure. This method is the least cost and most effective method of controlling contaminated runoff.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There is no savings or increase in costs as a result of the installation of the facility.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Department to control water pollution and accomplishes this purpose by the elimination of industrial waste as defined in ORS 468.700.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$23,247.25 with 100% allocated

Application No. T-2139  
Page 4

to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2139.

The applicant has been informed that the project's federal contribution may offset any net tax credit benefit.

RCDulay:hs  
IW\WH3141  
(503) 229-5876  
December 20, 1988



State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Stimson Lumber Company  
Clatskanie Division  
P.O. Box 68  
Forest Grove, Oregon 97116

The applicant owns and operates a sawmill in Forest Grove, Oregon.

Application was made for tax credit for a water pollution control facility.

2. Description of Facility

The facility is a covered dip-tank, containment sump and drip-floor for applying anti-sapstain chemical to lumber. A steel dip-tank is mounted in a concrete containment sump that provides drain-back of chemical dripping from treated lumber. An electric sump-pump returns all excess treatment chemical to the dip-tank.

The facility and treated lumber are protected from rain by a steel building and the anti-sapstain chemicals are confined to the building rather than being dragged out into the storage yard on the wet lumber.

Facility cost eligible for tax credit: \$65,776.00  
(Accountant's certification was provided)

The portions of the facility which are eligible for tax-credit are:

- a. the metal containment building
- b. the concrete floor (drip-pad)
- c. the concrete sump for collection of anti-sapstain chemical
- d. the sump pump, piping and flow-control system to return collected anti-sapstain chemical to the dip tank.

Portions considered to be non-eligible are:

- a. an office located in the building (not related to water pollution control)
- b. the steel dip-tank and lumber hoist (process equipment rather than water-pollution control equipment)

The eligible cost was adjusted downward from the total claimed amount of \$125,203.00 because of the ineligible costs listed above. The applicant was consulted on the cost adjustment and agreed to the final eligible cost of \$65,776.00

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

- a. The request for preliminary certification was filed August 5, 1986, less than 30 days before construction commenced on August 15, 1986.

However, according to the process provided in OAR 340-16-015(1)(b), the application was reviewed by DEQ staff and the applicant was notified that the application was complete and that construction could commence.

- b. The request for preliminary certification was approved before application for final certification was made.
- c. Construction of the facility was substantially completed on October 15, 1986 and the application for final certification was found to be complete on October 3, 1988, within two years of substantial completion of the facility.

4. Evaluation of Application

- a. The sole purpose of the facility is to prevent a substantial quantity of water pollution.

This prevention is accomplished by elimination of industrial waste as defined in ORS 468.700.

Prior to installation of this facility, a spray booth was used behind the planing-mill planer to treat lumber. Overspray from the booth went into the air and to a storm drain which eventually discharges to Scoggins Creek and the Tualatin River.

The installed dipping system eliminates overspray and loss of chemical to air and storm drain.

- b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- (1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

- (2) The estimated annual percent return on the investment in the facility.

The new facility could be expected to produce some savings relative to the old facility through reduced use of anti-sapstain chemical. Chemical would be saved by reduced loss to air and ground.

Stimson Lumber Company has estimated the net savings (increased operating expense less savings) from all sources to be less than \$2000 per year. The ROI calculated by the method of OAR 340-16-030, Table I, from the estimated net savings is zero because of the relatively high capital cost (\$65,776.00) and the long life (30-years) of the facility. The zero ROI makes all of the cost eligible for tax-credit.

- (3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The spray-booth system previously used was not effective in controlling pollution from loss of spray water to the storm drain. The dip-tank system is an acceptable, effective way to control water pollution.

- (4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

See ROI discussion above.

- (5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

## 5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that the sole purpose of the facility is to prevent a substantial quantity of water pollution and accomplishes this purpose by the elimination of industrial waste as defined in ORS 468.700.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the eligible claimed cost that is properly allocable to pollution control is 100-percent.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$65,776.00 with 100-percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2158.

Jerry E. Turnbaugh  
IW\WJ1594 (WTRR)  
(503) 229-5374  
(5-15-89)

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Valley Enterprises Ltd.  
PO Box 2362  
Eugene, OR 97402

The applicant owns and operates a tire retreading facility at 2797 Roosevelt Blvd., Eugene, Oregon.

Application was made for tax credit for an air pollution control facility.

2. Description of Facility

A system to control the emissions of smoke and dust generated by the rasp (grinder) on a tire buffing machine.

Claimed Facility Cost: \$17,653  
(Total facility cost was under \$20,000 and copies of invoices were provided to the Department.)

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190, and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

- a. The request for preliminary certification was filed on May 6, 1988, less than 30 days before construction commenced on May 6, 1988. However, according to the process provided in OAR 340-16-015(1)(b), the application was reviewed by DEQ staff and the applicant was notified that the application was complete and that construction could commence.
- b. The request for preliminary certification was approved before application for final certification was made.
- c. Construction of the facility was substantially completed on September 15, 1988, and the application for final certification was found to be complete on March 7, 1989 within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. The tire retreading facility includes a tire buffing machine which generates scrap rubber, fine dust, and smoke while operating. The tire retreading facility was relocated from a location outside the incorporated city limits to inside the city of Eugene. At the old location, the tire buffing machine had an emission control system consisting of a cyclone, fan and connecting duct work which collected the scrap rubber for disposal. The city of Eugene required the applicant to receive approval from Lane Regional Air Pollution Authority (LRAPA) for the tire buffing machine emission control system. LRAPA required a system that would control the fine dust and smoke emissions. The facility described in this application consists of the new emission control system installed at the new location.

The emission control system was designed and built by BLJ Manufacturing Company to control the emissions from tire buffing machines. An electronic control unit applies a spray of water to the cutting rasp, thus eliminating the heat and smoke normally created. Water is applied to the rasp through nozzles mounted inside the rasp hood. The water flow rate is controlled by sensing the current to the rasp motor. The operator watches a dial so as not to push the tire too hard against the rasp and over-load the control system. The system effectively prevents the generation of smoke.

A high efficiency cyclone separates the scrap rubber and fine dust from the exhaust air stream.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not create a sellable product. The applicant must pay someone to dispose of the waste rubber.

- 2) The estimated annual percent return on the investment in the facility.

The facility does not create a sellable product. There is no return on the investment.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

There is no known alternative.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

The scrap value of the emission control system at the old location was \$300.00.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

The claimed cost is the cost of the new system, \$17,953, less the scrap value of the old system, \$300.00 or \$17,653.00.

The actual cost of the facility properly allocable to pollution control as determined by using these factors is 100%.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.
- b. The facility is eligible for final tax credit certification in that the principal purpose of the facility is to comply with a requirement imposed by the Lane Regional Air Pollution Authority to control air pollution.
- c. The facility complies with Lane Regional Air Pollution Authority requirements
- d. The portion of the facility cost that is properly allocable to pollution control is 100%.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$17,653.00 with 100% allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2405.

Ray Potts:x  
POAX604  
(503) 229-6093  
3/9/89

Application No. T-2636

State of Oregon  
Department of Environmental Quality

TAX RELIEF APPLICATION REVIEW REPORT

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1. Applicant

Willamette Industries, Inc.  
3800 First Interstate Tower  
Portland, OR 97201

The applicant owns and operates a log handling, plywood and sawmill operation in Dallas, Oregon.

Application was made for tax credit for a water pollution control facility.

2. Description of Facility

The claimed facility is closure of a log pond on the mill site to eliminate pollution of Ash Creek by wood-waste leachate. Culverts were installed to divert the creek, which runs through the mill property, and the log pond (approximately three acres) was filled in.

A new mechanized log-handling facility was installed in place of the pond and the filled-in pond was paved to allow vehicular traffic. Costs of the log-handling facility and paving were not included in the project cost.

The project was accounted for as two projects:

Project 1712

Labor	\$ 8,748.17
Labor/Equipment Use	70,976.92
Equipment Rental/Transport	4,657.50
Culvert Supplies	37,403.50
Rock/Fill Dirt	35,935.50
Misc. Supplies	520.42
	-----
Total	\$158,242.01



Project 1792

Labor/Equipment Use	\$ 72,970.15
Equipment Rental/Transport	40,178.74
Concrete/Rock/Fill Dirt	185,154.21
Culvert Supplies	6,726.53
Fuel/Misc. Supplies	922.93
	-----
Total	\$305,952.56
Grand Total	\$464,194.57

Claimed Facility Cost: \$464,194.57  
Accountant's Certification was provided.

3. Procedural Requirements

The facility is governed by ORS 468.150 through 468.190 and by OAR Chapter 340, Division 16.

The facility met all statutory deadlines in that:

- a. The request for preliminary certification was filed May 7, 1985, more than 30 days before construction commenced on October 15, 1985.
- b. The request for preliminary certification was approved before application for final certification was made.
- c. Construction of the facility was substantially completed on July 22, 1987 and the application for final certification was found to be complete on March 20, 1989, within 2 years of substantial completion of the facility.

4. Evaluation of Application

- a. The sole purpose of the facility is to prevent a substantial quantity of water pollution.

This prevention is accomplished by the elimination of industrial waste as defined in ORS 468.700.

Prior to closure of the log pond, Ash Creek was receiving wood-waste leachate and oil and grease contamination as it flowed through the pond. Black water from the pond extended "several miles" downstream and was the source of considerable citizen concern.

After closure, Ash Creek is reported to be visibly much cleaner as it is now largely protected from contamination by the mill operation. The creek is 85 percent covered as it makes its way through the mill site.

b. Eligible Cost Findings

In determining the percent of the pollution control facility cost allocable to pollution control, the following factors from ORS 468.190 have been considered and analyzed as indicated:

- 1) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity.

The facility does not recover or convert waste products into a salable or usable commodity.

- 2) The estimated annual percent return on the investment in the facility.

There is no income from the facility and the applicant indicates there are no savings from the facility, so there is no return on the investment.

- 3) The alternative methods, equipment and costs for achieving the same pollution control objective.

The method chosen is an effective method for elimination of pollution to the creek.

- 4) Any related savings or increase in costs which occur or may occur as a result of the installation of the facility.

There are no indicated savings as a result of closing the log pond. The cost of operating and maintaining the facility is estimated by the applicant at \$1000 per year.

- 5) Any other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

There are no other factors to consider in establishing the actual cost of the facility properly allocable to prevention, control or reduction of pollution.

5. Summation

- a. The facility was constructed in accordance with all regulatory deadlines.

- b. The facility is eligible for final tax credit certification in that the sole purpose of the facility is to prevent a substantial quantity of water pollution and accomplishes this purpose by the elimination of industrial waste as defined in ORS 468.700.
- c. The facility complies with DEQ statutes and rules.
- d. The portion of the facility cost that is properly allocable to pollution control is 100-percent.

6. Director's Recommendation

Based upon these findings, it is recommended that a Pollution Control Facility Certificate bearing the cost of \$464,194.57 with 100-percent allocated to pollution control, be issued for the facility claimed in Tax Credit Application No. T-2636.

Jerry E. Turnbaugh  
IW\WC4791  
(503) 229-5374  
4-3-89

State of Oregon  
Department of Environmental Quality

Supplemental Information to Final Tax Credit  
Application Review Report for Forrest Paint

1. Additional Information:

At the April 14th EQC meeting, the Department was directed by the EQC to provide information on whether there was a difference of opinion or judgment between the Salem Region and Portland offices as to the question and conditions of eligibility. Mr. Forrest was requested to provide a cost breakdown of the 2" and 4" wells.

- a. Forrest Paint received preliminary approval for groundwater monitoring wells 2/2/87 by the Water Quality Division in Portland. The applicant believes that region staff stated the monitoring wells would be eligible for tax credit, depending on whether contaminants were found.

Salem region staff recall providing general tax credit information to Forrest Paint as they routinely provide to all business/industries contacts, and informing Mr. Forrest that monitoring wells at the time could be eligible. Staff could not recollect any conversation relative to the size of the wells, or eligibility being based on whether contamination was found. (Dave St.Louis telephone conversation 4/18/89).

- b. Forrest Paint applied for final tax credit certification, 4/8/88, for groundwater monitoring wells under the premise the wells were for detection purposes. Applicant believes credit should be approved under OAR 340-16-025 (2)(g) which authorizes tax credit for "Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases".

All of the wells installed by Forrest Paint were required by DEQ through its Hazardous Waste Program. None of the wells or activities required were designed as preventative or early detection measures. The wells were required to assess the extent of releases which occurred before the wells were installed. (Sandra Anderson, ECD, memo 3/13/89)

Monitoring wells may be eligible for tax credit if they are installed to detect, deter or prevent releases. The Pollution Control Tax Credit statute however, states that property for the cleanup of emergency spills or unauthorized releases as defined by the Commission, are not eligible. Consequently, the above rule provision does not apply to the cleanup of unauthorized releases.

In the preliminary application, Forest Paint acknowledged DEQ's intent in requiring the wells. The description, from the preliminary application, of the proposed wells and their functions stated, "... groundwater monitoring wells to measure and monitor the migration of certain hazardous wastes currently determined to be present on the location of Forrest Paint".

2. Findings to substantiate "unauthorized past practices":
  - a. Forrest Paint has owned and operated the facility since 1973 and is responsible for clean up of identified hazardous waste contamination.
  - b. As of 1971, under ORS 459.205, the depositing of solid waste on or off site is prohibited without a DEQ permit. There is no record of Forrest Paint being permitted for its activities which placed wastes in the ground on site.
  - c. Forrest Paint notified DEQ of its status as a hazardous waste generator on November 15, 1980.
  - d. The site history of Forrest Paint, which was prepared by Forrest Paint, states that the current owner disposed of wastes into a pond from 1973-79. No disposal permit was secured from DEQ for the pond.
  - e. There were a number of spills or releases which occurred on the site up to 1985.
  - f. According to the stipulation and consent Decree executed between Forrest Paint and DEQ: DEQ conducted a hazardous waste inspection of the facility on October 3, 1985, and subsequently issued a Notice of Violation of certain violations of state hazardous waste laws. (HW-WVR-85-190)
  - g. DEQ Environmental Cleanup Division staff state that wells were not designed as preventative or early detection measures. The wells were installed to assess the extent of releases from previous practices.
  - h. The preliminary application states that the contamination had occurred prior to the installation of the wells.
  - i. The 1987 statute amendment, which prohibits tax credit for unauthorized releases associated with clean up activities, was applied to the application.

Summary

The approval/denial of Forrest Paint's application for tax credit is to be based on an EQC determination of whether the proposed facilities are intended for prevention of environmental damage by early detections of spills/leaks, or, intended to assess the extent of impact of known unauthorized releases from past practices in conjunction with a clean up project.

The Director recommends that the Commission deny Forrest Paint's application T-2191 for tax credit certification in that state law does not authorize tax credit for facilities associated with the cleanup of unauthorized releases which has been substantiated by the above findings.

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: March 13, 1989

TO: Jerry Turnbaugh, Engineer  
Water Quality Division

FROM: Sandra Anderson, Project Manager  
Environmental Cleanup Division

SUBJECT: Pollution Tax Credit for Forrest Paint

RECEIVED  
MAR 14 1989

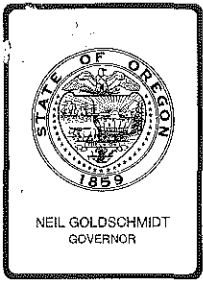
Water Quality Division  
Dept. of Environmental Quality

At your request I am responding to a letter of February 28, 1989 from Forrest Paint appealing denial of Forrest Paint's Pollution Tax Credit application.

Soils and ground water at Forrest Paint have been contaminated with hazardous substances as a result of past disposal practices and spills from underground lines and tanks. A copy of the history of the site is attached. The site history indicates solvents were disposed in an unpermitted pond from 1973 to 1979. Spills from tanks and underground lines also occurred during this time.

To address remediation of the contamination, Forrest Paint is subject to a Stipulation and Consent Decree signed August 8, 1988 pursuant to ORS 466.540 through 466.590. The Decree requires a Remedial Investigation, Feasibility Study, Selection of Remedial Action by DEQ, and selection and implementation of remedial design. All these activities and terms are defined in ORS 466.540. All these activities, and those remedial investigation activities occurring prior to the Consent Decree, including installation of monitoring wells, were and will be carried out to acquire enough information about the release to design and implement a remedial action. None of these wells or activities were designed as preventive measures or early detection measures, which is what I understand is the intended meaning of OAR 340-16-025(2)(g) allowing a tax credit. These wells were installed to assess the extent of releases which occurred years before the wells were installed, and to collect information leading to a cleanup. This use is what I understand is the intended meaning of OAR 340-16-025(3)(g) which excludes the facility from a tax credit.

I suggest you obtain a legal interpretation of OAR 340-16-025 from the Department of Justice. I will gladly provide any additional technical or historical information at your request.



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: June 2, 1989  
Agenda Item: F  
Division: Air Quality  
Section: Field Burning

#### SUBJECT:

Proposed adoption of Open Field Burning rules, OAR 340-26-001 through 340-26-055, as a revision to the Oregon State Clean Air Act Implementation Plan.

#### PURPOSE:

In conjunction with the State Fire Marshal's new Field Burning Rules, to improve public safety near open field burning, propane flaming, and stack burning operations, and to improve general air quality from increased propaning activity in the Willamette Valley.

#### ACTION REQUESTED:

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item \_\_\_ for Current Meeting
  - Other: (specify)
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment A
  - Proposed Rules Incorporated Attachment E
  - Rulemaking Statements Attachment B
  - Fiscal and Economic Impact Statement Attachment B
  - Public Notice Attachment C
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment \_\_\_
- Approve Department Recommendation
  - Variance Request Attachment \_\_\_
  - Exception to Rule Attachment \_\_\_
  - Informational Report Attachment \_\_\_
  - Other: (specify) Attachment \_\_\_



Meeting Date: June 2, 1989  
Agenda Item: F  
Page 2

DESCRIPTION OF REQUESTED ACTION:

The Department of Environmental Quality and the State Fire Marshal developed new fire safety rules for open field burning and propane flaming at the request of Governor Goldschmidt following the multi-car accident on Interstate 5 south of Albany on August 3, 1988. On August 12, 1988, both the State Fire Marshal and the Environmental Quality Commission adopted temporary emergency rules which addressed this issue.

Recently, the State Fire Marshal's emergency rules were permanently adopted. These rules specify fire equipment, water supplies, and other requirements for conducting open field burning and propaning, particularly near highways and major roadways.

The Department's emergency rules were in effect for 180 days until February 12, 1989. These rules incorporated the "fire safety buffer zones" as defined by the State Fire Marshal, and required prior Department authorization for conducting open burning within these zones. The Department's rules included additional restrictions within the fire safety buffer zones that went beyond the State Fire Marshal's rules, specifically, to minimize smoke emissions from propane flaming operations.

Since the adoption of the Department's emergency rules last year, the Department observed an increase in propane flaming and stack burning within the fire safety buffer zones, due to the increased restrictions on field burning in these areas. The Department has also been monitoring the trend in increased propaning on a Valley-wide basis over the last several years. Therefore, in addition to last years' emergency rules, the Department is proposing tighter controls on propaning and prohibiting stack burning within the first half of the fire safety buffer zones.

AUTHORITY/NEED FOR ACTION:

<input type="checkbox"/> Required by Statute: _____	Attachment _____
Enactment Date: _____	
<input checked="" type="checkbox"/> Statutory Authority: _____	Attachment _____
<input type="checkbox"/> Pursuant to Rule: _____	Attachment _____
<input type="checkbox"/> Pursuant to Federal Law/Rule: _____	Attachment _____
<input type="checkbox"/> Other: _____	Attachment _____
<input type="checkbox"/> Time Constraints: (explain)	

Meeting Date: June 2, 1989  
Agenda Item: F  
Page 3

DEVELOPMENTAL BACKGROUND:

<input type="checkbox"/>	Advisory Committee Report/Recommendation	Attachment	<input type="checkbox"/>
<input type="checkbox"/>	Hearing Officer's Report/Recommendations	Attachment	<input type="checkbox"/>
<input type="checkbox"/>	Response to Testimony/Comments	Attachment	<input type="checkbox"/>
<input checked="" type="checkbox"/>	Prior EQC Agenda Items:		
	August 12, 1988; Proposed Emergency Rulemaking on Propaning	Attachment	<u>D</u>
	April 14, 1989; Request for Authorization to Conduct Public Hearing	Attachment	<u>G</u>
<input checked="" type="checkbox"/>	Other Related Reports/Rules/Statutes:		
	OAR 837-110, Fire Marshal	Attachment	<u>F</u>
<input type="checkbox"/>	Supplemental Background Information	Attachment	<input type="checkbox"/>

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The proposed rule revisions should reduce smoke from propane flaming and stack burning near highways and major roadways, improving public safety and general air quality.

Some growers may be disadvantaged by the proposed rule to prohibit stack burning within the non-combustible area of the fire safety buffer zones. This would require either finding alternative methods to dispose of the straw, or moving the straw stack farther away from the highway/major roadway. Additional propaning restrictions within the fire safety buffer zones, and the proposal to impose further limits on propaning Valley-wide, may cause some growers greater inconvenience in time and expense.

PROGRAM CONSIDERATIONS:

The Department foresees many requests to authorize fields for open field burning in the second 1/4 mile of the fire safety buffer zone along Interstate 5 and the second 1/8 mile of the fire safety buffer zone along designated roadways. This will require additional staff time evaluating meteorological conditions specific to the location of each field, logging each request, and making final authorization. The Department also anticipates increases in propane flaming in the non-combustible portions of the fire safety buffer zones, which will require additional staff time monitoring propaning in these areas in order to curtail those operations creating visibility impairment.

The additional staff time required for open burning and propaning in these specific areas will result in either less staff time available for smoke management and enforcement in other areas of the Valley, or require additional staff (.25 to .50 FTE) in order to handle the additional responsibilities.

Meeting Date: June 2, 1989  
Agenda Item: F  
Page 4

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

The Department considered the following alternatives in drafting the proposed rules and amendments:

1. Adopt by reference the State Fire Marshal's Open Burning Rules, but not adopt the Department's Emergency Rules on field burning and propaning.
2. Permanent adoption of the Department's Emergency Rules on field burning and propaning, excluding the State Fire Marshal's Open Burning Rules.
3. Adopt both the Department's and State Fire Marshal's rules.
4. Adoption of both the Department's and State Fire Marshal's rules, including provisions prohibiting stack burning in the non-combustible portion of the fire safety buffer zone, and restricting propane flaming amounts, density and location based on unsuitable meteorological conditions and/or poor air quality.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The proposed Open Field Burning Rules were presented to the Commission and authorized for public hearing on April 14, 1989. The hearing will be held on May 22-23, 1989, in Eugene, Oregon. Resulting testimony will be summarized, and with the Director's recommendation, submitted prior to the June 2, 1989 Environmental Quality Commission meeting.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Not aware of conflict with any agency or legislative policies.

ISSUES FOR COMMISSION TO RESOLVE:

1. Should the Department be directly involved in on-site field burning authorizations along Interstate 5 and designated roadways?
2. Should the Department's rules incorporate by reference the State Fire Marshal rules, and if so, should the actual language be included in the Department's rules?
3. Should the Department further restrict propaning based on unsuitable meteorological conditions and/or poor air quality?

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4. Should stack burning be prohibited in the non-combustible areas of the fire safety buffer zones?

INTENDED FOLLOWUP ACTIONS:

Actions on draft rules and amendments:

- Submit rule revision to the U.S. Environmental Protection Agency as an amendment to the State Implementation Plan.

Approved:

Section: Nicole ~~Wills~~ or Jim Britton

Division: Nicole ~~Wills~~

Director: Rebecca Taylor

Report Prepared By: Jim Britton

Phone: 687-7837

Date Prepared: May 4, 1989

JB:k  
PLAN\AK1778  
5/4/89

Proposed Rule Revisions

Definitions

340-26-005

Insert the following as (16) and renumber the previous (16) through (43):

(16) "Fire safety buffer zone" shall have the same meaning as defined in the State Fire Marshal rules OAR 837-110-080.

Amend (27)(e) [(28)(e) after renumbering] as follows:

Areas on the west and east side of and within 1/4 mile of these highways: [Interstate 5], 99, 99E and 99W. Areas on the south and north side of and within 1/4 mile of US Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

General Requirements

340-26-010

Delete existing (7) and replace with:

(7) No open field burning shall be conducted within 1/4 mile of either side of any Interstate freeway within the Willamette Valley or within 1/8 mile of either side of the designated roadways, as specified in State Fire Marshal Rules OAR 837-110-080. In addition, no open field burning shall be conducted in any of the remaining area within a fire safety buffer zone without prior authorization from the Department.

Delete current text of (9)(b) and replace with:

(9) Utilizing ignition devices and fire control equipment which shall meet the requirements of the State Fire Marshal pursuant to OAR 837-110-030, and 837-110-040.

Registration, Permits, Fees, Records

340-26-012

Amend existing (2)(e)(B) as follows:

(2)(e)(B) Priority or fire safety buffer zone acreage located on the up wind side of any city, airport, Interstate freeway or [highway] designated roadway within the same priority area or buffer zone.

Daily Burning Authorization Criteria  
340-26-015

Amend existing (5)(a)(A) as follows:

(5)(a)(A) No priority or fire safety buffer zone acreage shall be burned up wind of any city, airport, Interstate freeway or [highway] designated roadway within the same priority area or buffer zone.

Approved Alternate Methods of Burning (Propane Flaming)  
340-26-045

Add (1)(b)(E) as follows:

(1)(b)(E) Every effort shall be made to conduct propane flaming in a manner which minimizes smoke emissions.

Add (1)(b)(F) as follows:

(1)(b)(F) No person shall cause or allow to maintain any propane flaming which results in visibility impairment on any highway or roadway as specified in OAR 837-110-080. Should visibility impairment occur all flames and smoke sources shall be immediately and actively extinguished.

Add (1)(c) as follows:

(1)(c) In addition to the conditions specified in paragraphs (a) and (b) of this section, propane flaming operations within any fire safety buffer zone must comply with the following criteria:

(A) Propaning shall be conducted at a vehicle speed appropriate for complete combustion and minimum smoke emissions but should not exceed 5 miles per hour.

(B) No propaning shall be allowed when either the relative humidity at the nearest reliable measuring station exceeds 65 percent or the surface winds exceed 15 miles per hour.

(C) The presence of any regrowth in the field between 6 and 12 inches in height shall be mowed or cut close to the ground and removed, providing mechanical removal of the resultant field residue is practicable. Any regrowth exceeding 12 inches in height shall be mowed or cut close to the ground and removed.

Add (3) as follows:

(3) The Department may issue limitations on the amount, density or frequency of propane flaming in any area when meteorological conditions are unsuitable for adequate smoke dispersion, or deterioration of ambient air quality occurs.

Add (4) as follows:

(4) All propane flaming operations shall be conducted in accordance with the State Fire Marshal's Safety requirements, as specified in OAR 837-110-100 through 837-110-160.

Add (1)(e) as follows:

(1)(e) No stack burning shall be conducted within any State Fire Marshal buffer zone" non-combustible ground surface" area (e.g. within 1/4 mile of Interstate I-5, or 1/8 mile of any designated roadway), as specified in OAR 837-110-080.

PLAN\AK1503 (5/89)

Agenda Item \_\_\_\_\_, April 14, 1989 EQC Meeting

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(2), this statement provides information on the intended action to amend rules.

1. Legal Authority

ORS 468.460 (1) provides legal authority for this action.

2. Need for the Rule

The proposed amendments and additions are needed to address air pollution problems generated by increase use of propane flaming in the Willamette Valley. Rules would also address propane flaming and stack burning in the State Fire Marshal's fire safety buffer zones. Other minor or clarifying changes are proposed. Rule revisions will be submitted to the U.S. Environmental Protection Agency as an Amendment to the State Implementation Plan.

3. Principal Documents Relied Upon in this Rulemaking

- a. Oregon Revised Statutes 468.450 through 468.495
- b. Oregon Administrative Rules Chapter 340, Division 23, Rules for Open Burning
- c. Oregon Administrative Rules Chapter 837, Division 110, Fire Marshal
- d. Proposed Emergency Rulemaking on Propaning, August 12, 1988

LAND USE COMPATIBILITY STATEMENT

The Department has concluded that portions of the proposed rules appear to affect land use and will be consistent with Statewide Planning Goals and Guidelines.

Goal 6 (Air, Water and Land Resources Quality): The proposal is designed to improve and maintain air quality in the affected area and is therefore consistent with the goal.

Goal 11 (Public Facilities and Services) is deemed unaffected by the rules.

Public comment on any land use issue involved is welcome and may be submitted in the same manner as indicated for testimony in this notice.



### FISCAL AND ECONOMIC IMPACT

There should be no significant adverse economic impact on small businesses. Proposed regulations could result in prohibition of propane flaming on some days; however, the extent of curtailment is likely to be negligible. Proposed restriction on stack burning in the fire safety buffer zone could have an economic and fiscal impact because of the transportation expense to move straw residue outside the non-combustible portion of the fire safety buffer zone. Cost to individual and small businesses will depend on the distance the residue will have to be moved. The Department believes that the criteria will significantly reduce air quality impacts from propane flaming and stack burning as well as benefit public safety

PLAX808

*Oregon Department of Environmental Quality*

# A CHANCE TO COMMENT ON...

Public Hearing

Hearing Date:

Comments Due:

**WHO IS  
AFFECTED:**

Residents of the State of Oregon and those involved with the grass seed industry.

**WHAT IS  
PROPOSED:**

The Department of Environmental Quality is proposing to amend the Open Field Burning Rules (OAR 340-26-001 through 340-26-055) particularly related to propane flaming, stack burning, and activities within the State Fire Marshal's fire safety buffer zones.

**WHAT ARE THE  
HIGHLIGHTS:**

The proposed rule changes would:

- Allow the Department to regulate amounts, density, and frequency of propane flaming when meteorological and air quality conditions warrant such action.
- Set restrictions on the way propane flaming operations are conducted within the non-combustible portions of fire safety buffer zones to reduce smoke emissions.
- Prohibit burning of straw stacks within the non-combustible portions of fire safety buffer zones to reduce smoke emissions along Interstate 5 and designated highways.
- Require growers to use lighting equipment as prescribed by State Fire Marshal rules.
- Defines "fire safety buffer zone" to have the same meaning as defined in the State Fire Marshal rules.
- Requires Department authorization on a field-by-field basis prior to conducting any open field burning in the fire safety buffer zone.

**PUBLIC  
HEARINGS:**

Public hearings will be held before a hearings official at:

TIME: \_\_\_\_\_

DATE: \_\_\_\_\_

PLACE: \_\_\_\_\_

**FOR FURTHER INFORMATION:**

Contact the person or division identified in the public notice by calling 686-7837 in the Eugene area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

**HOW TO  
COMMENT:**

Written or oral comments may be presented at the hearings. Written comments may also be sent to the Department of Environmental Quality, Air Quality Division, Field Burning Program, 1244 Walnut Street, Eugene, Oregon 97403, and must be received no later than 5:00 p.m., \_\_\_\_\_, 1989.

Copies of the complete proposed rule package may be obtained from the Department of Environmental Quality, Air Quality Division, Field Burning Program. For further information, contact Jim Britton at 1-503-686-7837.

**WHAT IS THE  
NEXT STEP:**

The Environmental Quality Commission may adopt new rules identical to the ones proposed, adopt modified rules as a result of the testimony received, or may decline to adopt rules. The Commission will consider the proposed rule revisions at its meeting on \_\_\_\_\_, 1989.

PROPOSED EMERGENCY RULEMAKING ON PROPANING

COMMISSION DISCUSSION FORMAT

August 12, 1988

OAR 837-110-080

Definitions

340-26-005

Insert the following as (16) and renumber the previous (16) through (43):

(16) "Fire safety buffer zone" shall have the same meaning as defined in the State Fire Marshall rules.

Amend (27)(e) as follows:

(27)(e) Areas on the south and north side of and within 1/4 mile of ORE 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

General Requirements

340-26-010

Delete existing (7) and replace with:

(7) No open field burning shall be conducted within 1/4 mile of either side of any Interstate freeway within the Willamette Valley or within 1/8 mile of either side of the designated roadways listed in rule 340-26-005(16). In addition, no open field burning shall be conducted in any of the remaining area within a fire safety buffer zone without prior authorization from the Department.

Amend (8) as follows:

(8) Each responsible person open field burning within a priority area around a designated city[, ] or airport [or highway] shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the designated city[, ] or airport [or highway].

Delete current text of (9)(b) and replace with:

(9) Utilizing ignition devices and fire control equipment which shall meet the requirements of the State Fire Marshall pursuant to 837-110-030.

Registration, Permits, Fees, Records  
340-26-012

Amend (2)(e)(B) as follows:

(2)(e)(B) Priority acreage or fire safety buffer zone located on the upwind side of any city, airport, Interstate freeway or [highway] designated roadway within the same priority area or buffer zone.

Daily Burning Authorization Criteria  
340-26-015

Amend (5)(a)(A) as follows:

(5)(a)(A) Priority acreage or fire safety buffer zone located on the upwind side of any city, airport, Interstate freeway or [highway] designated roadway within the same priority area or buffer zone.

Approved Alternative Methods of Burning (Propane Flaming)  
340-26-045

Add (1)(b)(E) as follows:

(1)(b)(E) Every effort shall be made to conduct propane flaming in a manner which minimizes smoke emissions.

Approved Alternative Methods of Burning (Propane Flaming)  
340-26-045 (continued)

Add (1)(c) as follows:

(1)(c) In addition to the conditions specified in paragraphs (a) and (b) of this section, propane flaming operations within any fire safety buffer zone must comply with the following criteria:

(A) Propaning shall be conducted at a vehicle speed appropriate for complete combustion and minimum smoke emissions but should not exceed 5 miles per hour.

(B) No propaning shall be allowed when either the relative humidity at the nearest reliable measuring station exceeds 65 percent or the surface winds exceed 15 miles per hour.

(C) The presence of any regrowth in the field between 6 and 12 inches in height shall be mowed or cut close to the ground, and removed providing mechanical removal of the resultant field residue is practicable. Any regrowth exceeding 12 inches in height must be mowed or cut close to the ground and removed.

(D) No person shall cause or allow to maintain any propane flaming which results in visibility impairment on any roadway specified in rule 340-26-005(16).

(E) Should a violation of 340-26-045(1)(c)(D) occur, all flame and smoke sources shall be immediately and actively extinguished.

DIVISION 26

**RULES FOR OPEN FIELD BURNING  
(Willamette Valley)**

**Introduction**

340-26-001 (1) These rules apply to the open burning of all perennial and annual grass seed and cereal grain crops or associated residue within the Willamette Valley, hereinafter referred to as "open field burning". The open burning of all other agricultural waste material (referred to as "fourth priority agricultural burning") is governed by OAR Chapter 340, Division 23, Rules for Open Burning.

(2) Organization of rules:

(a) OAR 340-26-003 is the policy statement of the Environmental Quality Commission setting forth the goals of these rules:

(b) OAR 340-26-005 contains definitions of terms which have specialized meanings within the context of these rules.

(c) OAR 340-26-010 lists general provisions and requirements pertaining to all open field burning with particular emphasis on the duties and responsibilities of the grower registrant.

(d) OAR 340-26-012 lists procedures and requirements for registration of acreage, issuance of permits, collection of fees, and keeping of records, with particular emphasis on the duties and responsibilities of the local permit issuing agencies.

(e) OAR 340-26-013 establishes acreage limits and methods of determining acreage allocations.

(f) OAR 340-26-015 establishes criteria for authorization of open field burning pursuant to the administration of a daily smoke management control program.

(g) OAR 340-26-025 establishes civil penalties for violations of these field burning rules.

(h) OAR 340-26-031 establishes special provisions pertaining to field burning by public agencies for official purposes, such as "training fires".

(i) OAR 340-26-033 establishes special provisions pertaining to "preparatory burning".

(j) OAR 340-26-035 establishes special provisions pertaining to open field burning for experimental purposes.

(k) OAR 340-26-040 establishes special provisions and procedures pertaining to emergency open field burning and emergency cessation of burning.

(l) OAR 340-26-045 establishes provisions pertaining to approved alternative methods of burning, such as "propane flaming".

(m) OAR 340-26-055 establishes provisions pertaining to "stack burning."

### **Policy**

340-26-003 In the interest of public health and welfare pursuant to ORS 468.455, it is the declared public policy of the State of Oregon to control, reduce, and prevent air pollution from open field burning by smoke management. In developing and carrying out a smoke management control program it is the policy of the Environmental Quality Commission:

(1) To provide for a maximum level of burning with a minimum level of smoke impact on the public, recognizing:

(a) The importance of flexibility and judgement in the daily decision-making process, within established and necessary limits;

(b) The need for operational efficiency within and between each organizational level;

(c) The need for effective compliance with all regulations and restrictions.

(2) To study, develop and encourage the use of reasonable and economically feasible alternatives to the practice of open field burning.

### **Definitions**

340-26-005 As used in these rules, unless otherwise required by context:

(1) "Actively extinguish" means the direct application of water or other fire retardant to an open field fire.

(2) "Approved alternative method(s)" means any method approved by the Department to be a satisfactory alternative field sanitation method to open field burning.

(3) "Approved alternative facilities" means any land, structure, building, installation, excavation, machinery, equipment, or device approved by the Department for use in conjunction with an approved alternative method.

(4) "Commission" means the Environmental Quality Commission.



(5) "Cumulative hours of smoke intrusion in the Eugene-Springfield area" means the average of the totals of cumulative hours of smoke intrusion recorded for the Eugene site and the Springfield site. Provided the Department determines a smoke intrusion to have been significantly contributed to by field burning, it shall record for each hour of the intrusion which causes the nephelometer hourly reading to exceed background levels (the average of the three hourly readings immediately prior to the intrusion) by:

(a)  $5.0 \times 10^{-4}$  b-scat units or more, two hours of smoke intrusion;

(b)  $4.0 \times 10^{-4}$  b-scat units or more, for intrusions after September 15 of each year, two hours of smoke intrusion;

(c)  $1.8 \times 10^{-4}$  b-scat units or more but less than the applicable value in subsection (a) or (b), one hour of smoke intrusion.

(6) "Department" means the Department of Environmental Quality.

(7) "Director" means the Director of the Department or delegated employee representative pursuant to ORS 468.045(3).

(8) "District allocation" means the total amount of acreage sub-allocated annually to the fire district, based on the district's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued within the district, subject to daily authorization. District allocation is defined by the following identity:

$$\text{District Allocation} = \frac{\text{Maximum annual acreage limit}}{\text{Total acreage registered in the Valley}} \times \frac{\text{Total acreage registered in the District}}$$

(9) "Drying day" means a 24-hour period during which the relative humidity reached a minimum less than 50% and no rainfall was recorded at the nearest reliable measuring site.

(10) "Effective mixing height" means either the actual height of plume rise as determined by aircraft measurement or the calculated or estimated mixing height as determined by the Department, whichever is greater.

(11) "Field-by-field burning" means burning on a limited restricted basis in which the amount, rate, and area authorized for burning is closely controlled and monitored. Included under this definition are "training fires" and experimental open field burning.

(12) "Field reference code" means a unique four-part code which identifies a particular registered field for mapping purposes. The first part of the code

shall indicate the grower registration (form) number, the second part the line number of the field as listed on the registration form, the third part the crop type, and the fourth part the size (acreage) of the field (e.g., a 35 acre perennial (bluegrass) field registered on line 2 of registration form number 1953 would be 1953-2-P-BL-35).

(13) "Fire district" or "district" means a fire permit issuing agency.

(14) "Fire permit" means a permit issued by a local fire permit issuing agency pursuant to ORS 477.515, 477.530, 476.380, or 478.960.

(15) "Fires-out time" means the time announced by the Department at which all flames and major smoke sources associated with open field burning should be out, and prohibition conditions are scheduled to be imposed.

(16) "Fire safety buffer zone" shall have the same meaning as defined in the State Fire Marshal rules.

{(16)} (17) "Fluffing" means an approved mechanical method of stirring or tending crop residues for enhanced aeration and drying of the full fuel load, thereby improving the field's combustion characteristics.

{(17)} (18) "Grower allocation" means the amount of acreage sub-allocated annually to the grower registrant, based on the grower registrant's pro rata share of the maximum annual acreage limitation, representing the maximum amount for which burning permits may be issued, subject to daily authorization. Grower allocation is defined by the following identity:

Grower Allocation =

$$\frac{\text{Maximum annual acreage limit}}{\text{Total acreage registered in the Valley}}$$

$$\times \text{Total acreage registered by grower registrant}$$

{(18)} (19) "Grower registrant" means any person who registers acreage with the Department for purposes of open field burning.

{(19)} (20) "Marginal conditions" means conditions defined in ORS 468.450(1) under which permits for open field burning may be issued in accordance with these rules and other restrictions set forth by the Department.

{(20)} (21) "Nephelometer" means an instrument for measuring ambient smoke concentrations.

{(21)} (22) "Northerly winds" means winds coming from directions from 290

to 90 in the north part of the compass, averaged through the effective mixing height.

{(22)} (23) "Open field burning" means burning of any perennial or annual grass seed or cereal grain crop, or associated residue, in such manner that combustion air and combustion products are not effectively controlled.

{(23)} (24) "Open field burning permit" means a permit issued by the Department pursuant to ORS 468.458.

{(24)} (25) "Permit issuing agency" or "Permit agent" means the county court or board of county commissioners, or fire chief or a rural fire protection district or other person authorized to issue fire permits pursuant to ORS 477.515, 477.530, 476.380, or 478.960.

{(25)} (26) "Preparatory burning" means controlled burning of portions of selected problem fields for the specific purpose of reducing the fire hazard potential or other conditions which would otherwise inhibit rapid ignition burning when the field is subsequently open burned.

{(26)} (27) "Priority acreage" means acreage located within a priority area.

{(27)} (28) "Priority areas" means the following areas of the Willamette Valley:

(a) Areas in or within three miles of the city limits of incorporated cities having populations of 10,000 or greater.

(b) Areas within one mile of airports servicing regularly scheduled airline flights.

(c) Areas in Lane County south of the line formed by U.S. Highway 126 and Oregon Highway 126.

(d) Areas in or within three miles of the city limits of the City of Lebanon.

(e) Areas on the west and east side of and within 1/4 mile of these highways: [U.S.-Interstate-5,] 99, 99E, and 99W. Areas on the south and north side of and within 1/4 mile of U.S. Highway 20 between Albany and Lebanon, Oregon Highway 34 between Lebanon and Corvallis, Oregon Highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa.

{(28)} (29) "Prohibition conditions" means conditions under which open field burning is not allowed except for individual burns specifically authorized by the Department pursuant to rule 340-26-015(2).

~~{(29)}~~ (30) "Propane flaming" means an approved alternative method of burning which employs a mobile flamer device which meets the following design specifications and utilizes an auxiliary fuel such that combustion is nearly complete and emissions significantly reduced:

(a) Flamer nozzles must be not more than 15 inches apart.

(b) A heat deflecting hood is required and must extend a minimum of 3 feet beyond the last row of nozzles.

~~{(30)}~~ (31) "Quota" means an amount of acreage established by the Department for each fire district for use in authorizing daily burning limits in a manner to provide, as reasonably as practicable, an equitable opportunity for burning in each area.

~~{(31)}~~ (32) "Rapid ignition techniques" means a method of burning in which all sides of the field are ignited as rapidly as practical in order to maximize plume rise. Little or no preparatory backfire burning shall be done.

~~{(32)}~~ (33) "Residue" means straw, stubble and associated crop material generated in the production of grass seed and cereal grain crops.

~~{(33)}~~ (34) "Responsible person" means each person who is in ownership, control, or custody of the real property on which open burning occurs, including any tenant thereof, or who is in ownership, control or custody of the material which is burned, or the grower registrant. Each person who causes or allows open field burning to be maintained shall also be considered a responsible person.

~~{(34)}~~ (35) "Small-seeded seed crops requiring flame sanitation" means small-seeded grass, legume, and vegetable crops, or other types approved by the Department, which are planted in early autumn, are grown specifically for seed production, and which require flame sanitation for proper cultivation. For purposes of these rules, clover and sugar beets are specifically included. Cereal grains, hairy vetch, or field peas are specifically not included.

~~{(35)}~~ (36) "Smoke management" means a system for the daily (or hourly) control of open field burning through authorization of the times, locations, amounts and other restrictions on burning, so as to provide for suitable atmospheric dispersion of smoke particulate and to minimize impact on the public.

~~{(36)}~~ (37) "Southerly winds" means winds coming from directions from 90 to 290 in the south part of the compass, averaged through the effective mixing height.

~~{(37)}~~ **(38)** "Stack burning" means the open burning of piled or stacked residue from perennial or annual grass seed or cereal grain crops used for seed production.

~~{(38)}~~ **(39)** "Test fires" means individual field burns specifically authorized by the Department for the purpose of determining or monitoring atmospheric dispersion conditions.

~~{(39)}~~ **(40)** "Training fires" means individual field burns set by or for a public agency for the official purpose of training personnel in fire-fighting techniques.

~~{(40)}~~ **(41)** "Unusually high evaporative weather conditions" means a combination of meteorological conditions following periods of rain which result in sufficiently high rates of evaporation, as determined by the Department, where fuel (residue) moisture content would be expected to approach about 12 percent or less.

~~{(41)}~~ **(42)** "Validation number" means a unique five-part number issued by a permit issuing agency which validates a specific open field burning permit for a specific acreage in a specific location on a specific day. The first part of the validation number shall indicate the grower registration (form) number, the second part the line number of the field as listed on the registration form, the third part the number of the month and the day of issuance, the fourth part the hour burning authorization was given based on a 24-hour clock, and the fifth part shall indicate the size of acreage to be burned (e.g., a validation number issued August 26 at 2:30 p.m. for a 70-acre burn for a field registered on line 2 of registration form number 1953 would be 1953-2-0826-1430-070).

~~{(42)}~~ **(43)** "Ventilation Index (VI)" means a calculated value used as a criterion of atmospheric ventilation capabilities. The Ventilation Index as used in these rules is defined by the following identity:

$$VI = \frac{\text{Effective mixing height (feet)}}{1000} \times \text{Average wind speed through the effective mixing height (knots)}$$

~~{(43)}~~ **(44)** "Willamette Valley" means the areas of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington, and Yamhill Counties lying between the crest of the Coast Range and the crest of the Cascade Mountains, and includes the following:

- (a) "South Valley", the areas of jurisdiction of all fire permit issuing

agents or agencies in the Willamette Valley portions of the counties of Benton, Lane, or Linn.

(b) "North Valley", the areas of jurisdiction of all other fire permit issuing agents or agencies in the Willamette Valley.

### General Requirements

340-26-010 (1) No person shall cause or allow open field burning on any acreage unless said acreage has first been registered and mapped pursuant to rule 340-26-012(1), the registration fee has been paid, and the registration (permit application) has been approved by the Department.

(2) No person shall cause or allow open field burning without first obtaining (and being able to readily demonstrate) a valid open field burning permit and fire permit from the appropriate permit issuing agent pursuant to rule 340-26-012(2).

(3) No person shall open field burn cereal grain acreage unless that person first issues to the Department a signed statement, and then acts to insure, that said acreage will be planted in the following growing season to a small-seeded seed crop requiring flame sanitation for proper cultivation as defined in rule 340-26-005(34).

(4) No person shall cause or allow open field burning which is contrary to the Department's announced burning schedule specifying the times, locations and amounts of burning permitted, or to any other provision announced or set forth by the Department or these rules.

(5) Each responsible person open field burning shall have an operating radio receiver and shall directly monitor the Department's burn schedule announcements at all times while open field burning.

(6) Each responsible person open field burning shall actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by an agent or employe of the Department.

(7) ~~[No person shall open field burn priority acreage on the west side of and abutting U.S. Interstate 5 without first providing a non-combustible strip at least 8 feet in width between the combustible materials of said field and the freeway right-of-way, to serve as fireguard for safety purposes.]~~ No open field burning shall be conducted within 1/4 mile of either side of any Interstate freeway within the Willamette Valley or within 1/8 mile of either side of the designated roadways listed in rule 837-110-080(2)(c). In addition, no open field

burning shall be conducted in any of the remaining area within a fire safety buffer zone without prior authorization from the Department.

(8) Each responsible person open field burning within a priority area or fire safety buffer zone around a designated city, airport or highway shall refrain from burning and promptly extinguish any burning if it is likely that the resulting smoke would noticeably affect the designated city, airport or highway.

(9) Each responsible person open field burning shall make every reasonable effort to expedite and promote efficient burning and prevent excessive emissions of smoke by:

(a) Ensuring that field residues are evenly distributed and in generally good burning condition;

(b) ~~[Utilizing approved lighting devices (drip torch, propane torch or other pressurized lighting device) and fire control (recommend minimum 500 gallons water) equipment;]~~ Utilizing ignition devices, fire control equipment and water supplies which meet the requirements of the State Fire Marshal, as specified in OAR 837-110-020 through 837-110-040.

(c) Employing rapid ignition techniques on all acreage where there are no imminent fire hazards or public safety concerns.

(10) Each responsible person open field burning shall attend the burn until effectively extinguished.

(11) Open field burning in compliance with the rules of this Division does not exempt any person from any civil or criminal liability for consequences or damages resulting from such burning, nor does it exempt any person from complying with any other applicable law, ordinance, regulation, rule, permit, order or decree of the Commission or any other government entity having jurisdiction.

(12) Any revisions to the maximum acreage to be burned, allocation or permit issuing procedures, or any other substantive changes to these rules affecting open field burning for any year shall be made prior to June 1 of that year. In making rule changes, the Commission shall consult with Oregon State University.

(13) Open field burning shall be regulated in a manner consistent with the requirements of the Oregon Visibility Protection Plan for Class I areas (OAR 340-20-047, sec. 5.2).

## Certified Alternative to Open Field Burning

340-26-011 [DEQ 105, f.& ef. 12-36-75;  
DEQ 114, f.6-4-76;  
DEQ 138, f.6-30-77;  
DEQ 140(Temp), f.& ef. 7-27-77 thru 11-23-77;  
DEQ 6-1978, f.& ef. 4-18-78 thru 10-5-78;  
DEQ 2-1980, f.& ef. 1-21-80;  
DEQ 12-1980, f.& ef. 4-21-80;  
DEQ 9-1981, f. & ef. 3-19-81;  
Repealed by DEQ 5-1984, f. & ef. 3-7-84]

## Registration, Permits, Fees, Records

340-26-012 In administering a field burning smoke management program, the Department may contract with counties or fire districts to administer registration of acreage, issuance of permits, collection of fees and keeping of records for open field burning within their permit jurisdictions. The Department shall pay said authority for these services in accordance with the payment schedule provided for in ORS 468.480:

(1) Registration of acreage:

(a) On or before April 1 of each year, all acreage to be open burned under these rules shall be registered with the Department or its authorized permit agent on registration forms provided by the Department. Said acreage shall also be delineated on specially provided registration map materials and identified using a unique field reference code. Registration and mapping shall be completed according to the established procedures of the Department. A non-refundable registration fee of \$1 for each acre registered shall be paid at the time of registration. A complete registration (permit application) shall consist of a fully executed registration form, map and fee.

(b) Registration of acreage after April 1 of each year shall require the prior approval of the Department and an additional \$1 per acre late registration fee if the late registration is due to the fault of the late registrant or one under his control.

(c) Copies of all registration forms and fees shall be forwarded to the Department promptly by the permit agent. Registration map materials shall be made available to the Department at all times for inspection and reproduction.

(d) The Department shall act on any registration application within 60 days of receipt of a completed application. The Department may deny or revoke any registration application which is incomplete, false or contrary to state law or these rules.



(e) It is the responsibility of the grower registrant to insure that the information presented on the registration form and map is complete and accurate.

(2) Permits:

(a) Permits for open field burning shall be issued by the Department, or its authorized permit agent, to the grower registrant in accordance with the established procedures of the Department, and the times, locations, amounts and other restrictions set forth by the Department or these rules.

(b) A fire permit from the local fire permit issuing agency is also required for all open burning pursuant to ORS 477.515, 477.530, 476.380, 478.960.

(c) A valid open field burning permit shall consist of:

(A) An open field burning permit issued by the Department which specifies the permit conditions in effect at all times while burning and which identifies the acreage specifically registered and annually allocated for burning;

(B) A validation number issued by the local permit agent on the day of the burn identifying the specific acreage allowed for burning and the date and time the permit was issued; and

(C) Payment of the required \$2.50 per acre burn fee.

(d) Open field burning permits shall at all times be limited by and subject to the burn schedule and other requirements or conditions announced or set forth by the Department.

(e) No person shall issue open field burning permits for open field burning of:

(A) More acreage than the amount sub-allocated annually to the District by the Department pursuant to rule 340-26-013(2);

(B) Priority or fire safety buffer zone acreage located on the upwind side of any city, airport, Interstate freeway or highway within the same priority area or buffer zone.

(f) It is the responsibility of each local permit issuing agency to establish and implement a system for distributing open field burning permits to individual grower registrants when burning is authorized, provided that such system is fair, orderly and consistent with state law, these rules and any other provisions set forth by the Department.

(3) Fees: Permit agents shall collect, properly document and promptly forward all required registration and burn fees to the Department.

(4) Records:

(a) Permit agents shall at all times keep proper and accurate records of all transactions pertaining to registrations, permits, fees, allocations, and other matters specified by the Department. Such records shall be kept by the permit agent for a period of at least five years and made available for inspection by the appropriate authorities.

(b) Permit agents shall submit to the Department on specially provided forms weekly reports of all acreage burned in their jurisdictions. These reports shall cover the weekly period of Monday through Sunday, and shall be mailed and post-marked no later than the first working day of the following week.

#### **Acreage Limitations, Allocations**

##### **340-26-013 (1) Limitation of Acreage:**

(a) Except for acreage and residue open burned pursuant to rules 340-26-035, 340-26-040, 340-26-045, and 340-26-055 the maximum acreage to be open burned annually in the Willamette Valley under these rules shall not exceed 250,000 acres.

(b) The maximum acreage allowed to be open burned under these rules on a single day in the south Valley under southerly winds shall not exceed 46,934 acres.

(c) Other limitations on acreage allowed to be open burned are specified in rules 340-26-015(7), 340-26-033(2), and 340-26-035(1).

##### **(2) Allocation of Acreage:**

(a) In the event that total registration as of April 1 is less than or equal to the maximum acreage allowed to be open burned annually, pursuant to subsection (1)(a) of this rule, the Department may sub-allocate to growers on a pro rata share basis not more than 100 percent of the maximum acreage limit, referred to as "grower allocation". In addition, the Department shall sub-allocate to each respective fire district, its pro rata share of the maximum acreage limit based on acreage registered within the district, referred to as "district allocation".

(c) In order to insure optimum permit utilization, the Department may adjust fire district allocations.

(d) Transfer of allocations for farm management purposes may be made within and between fire districts and between grower registrants on a one-in/one-out basis under the supervision of the Department.

## Daily Burning Authorization Criteria

340-26-015 As part of the smoke management program provided for in ORS 468.470 the Department shall set forth the types and extent of open field burning to be allowed each day according to the provisions established in this section and these rules:

(1) During the active field burning season and on an as needed basis, the Department shall announce the field burning schedule over the field burning radio network operated specifically for this purpose. The schedule shall specify the times, locations, amounts and other restrictions in effect for open field burning. The Department shall notify the State Fire Marshal of the burning schedule for dissemination to appropriate Willamette Valley agencies.

(2) Prohibition conditions:

(a) Prohibition conditions shall be in effect at all times unless specifically determined and announced otherwise by the Department.

(b) Under prohibition conditions, no permits shall be issued and no open field burning shall be conducted in any area except for individual burns specifically authorized by the Department on a limited extent basis. Such limited burning may include field-by-field burning, preparatory burning, or burning of test fires, except that:

(A) No open field burning shall be allowed:

(i) In any area subject to a ventilation index of less than 10.0

(ii) In any area upwind, or in the immediate vicinity, of any area in which, based upon real-time monitoring, a violation of federal or state air quality standards is projected to occur.

(B) Only test-fire burning may be allowed:

(i) In any area subject to a ventilation index of between 10.0 and 15.0, inclusive, except for experimental burning specifically authorized by the Department pursuant to rule 340-26-035;

(ii) When relative humidity at the nearest reliable measuring station exceeds 50 percent under forecast northerly winds or 65 percent under forecast southerly winds.

(3) Marginal conditions:

(a) The Department shall announce that marginal conditions are in effect and open field burning is allowed when, in its best judgement and within the established limits of these rules, the prevailing atmospheric dispersion and burning

conditions are suitable for satisfactory smoke dispersal with minimal impact on the public, provided that the minimum conditions set forth in paragraphs (2)(b) (A) and (B) of this rule are satisfied.

(b) Under marginal conditions, permits may be issued and open field burning may be conducted in accordance with the times, locations, amounts, and other restrictions set forth by the Department and these rules.

(4) Hours of burning:

(a) Burning hours shall be limited to those specifically authorized by the Department each day and may be changed at any time when necessary to attain and maintain air quality.

(b) Burning hours may be reduced by the fire chief or his deputy, and burning may be prohibited by the State Fire Marshal, when necessary to prevent danger to life or property from fire, pursuant to ORS 478.960.

(5) Locations of burning:

(a) Locations of burning shall at all times be limited to those areas specifically authorized by the Department, except that:

(A) No priority or fire safety buffer zone acreage shall be burned upwind of any city, airport, Interstate freeway or highway within the same priority area or buffer zone;

(B) No south Valley priority acreage shall be burned upwind of the Eugene-Springfield non-attainment area.

(6) Amounts of burning:

(a) In order to provide for an efficient and equitable distribution of burning, daily authorizations of acreages shall be issued by the Department in terms of single or multiple fire district quotas. The Department shall establish quotas for each fire district and may adjust the quotas of any district when conditions in its judgement warrant such action.

(b) Unless otherwise specifically announced by the Department, a one quota limit shall be considered in effect for each district authorized for burning.

(c) The Department may issue more restrictive limitations on the amount, density or frequency of burning in any area or on the basis of crop type, when conditions in its judgement warrant such action.

(7) Limitations on burning based on air quality:

(a) The Department shall establish the minimum allowable effective mixing height required for burning based upon cumulative hours of smoke intrusion in the Eugene-Springfield area as follows:

height required for burning based upon cumulative hours of smoke intrusion in the Eugene-Springfield area as follows:

(A) Except as provided in paragraph (B) of this subsection, burning shall not be permitted whenever the effective mixing height is less than the minimum allowable height specified in Table 1, and by reference made a part of these rules.

(B) Notwithstanding the effective mixing height restrictions of paragraph (A) of this subsection, the Department may authorize burning of up to 1000 acres total per day for the Willamette Valley, consistent with smoke management considerations and these rules.

(8) Limitations on burning based on rainfall:

(a) Burning shall not be permitted in an area for one drying day (up to a maximum of four consecutive drying days) for each 0.10 inch increment of rainfall received per day at the nearest reliable measuring station.

(b) The Department may waive the restrictions of subsection (a) of this section when dry fields are available as a result of special field preparation or condition, irregular rainfall patterns, or unusually high evaporative weather condition.

(9) Other discretionary provisions and restrictions:

(a) The Department may require special field preparations before burning, such as, but not limited to, mechanical fluffing of residues, when conditions in its judgement warrant such action.

(b) The Department may designate specified periods following permit issuance within which time active field ignition must be initiated and/or all flames must be actively extinguished before said permit is automatically rendered invalid.

(c) The Department may designate additional areas as priority areas when conditions in its judgement warrant such action.

## Winter Burning Season Regulations

340-26-020 [DEQ 29, f.6-12-71, ef. 7-12-71;  
DEQ 93(Temp), f. & ef. 7-11-75 thru 11-28-75;  
DEQ 104, f. & ef. 12-26-75;  
DEQ 114, f. 6-4-76;  
DEQ 138, f. 6-30-77;  
DEQ 6-1978, f. 4-18-78;  
DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78;  
DEQ 2-1980, f. & ef. 1-21-80;  
DEQ 12-1980, f. & ef. 4-21-80;  
DEQ 9-1981, f. & ef. 3-19-81;  
Repealed by DEQ 5-1984, f. & ef. 3-7-84]

## Civil Penalties

340-26-025 In addition to any other penalty provided by law:

(1) Any person who intentionally or negligently causes or allows open field burning contrary to the provisions of ORS 468.450, 468.455 to 468.480, 476.380, and 478.960 or these rules shall be assessed by the Department a civil penalty of at least \$20, but not more than \$40 for each acre so burned.

(2) In lieu of any per-acre civil penalty assessed pursuant to section (1) of this rule, the Director may assess a specific civil penalty for any open field burning violation by service of a written notice of assessment of civil penalty upon the respondent. The amount of such civil penalty shall be established consistent with the following schedule:

(a) Not less than \$500 nor more than \$10,000 upon any person who:

(A) Causes or allows open field burning on any acreage which has not been registered with the Department for such purposes.

(B) Causes or allows open field burning on any acreage without first obtaining and readily demonstrating a valid open field burning permit for all acreage so burned.

(b) Not less than \$300 nor more than \$10,000 upon any person who fails to actively extinguish all flames and major smoke sources when prohibition conditions are imposed by the Department or when instructed to do so by any agent or employe of the Department.

(c) Not less than \$200 nor more than \$10,000 upon any person who:

(A) Conducts burning using an approved alternative method contrary to any specific conditions or provisions governing such method.

(B) Fails to readily demonstrate at the site of the burn operation the capability to monitor the Department's field burning schedule broadcasts.

(d) Not less than \$50 nor more than \$10,000 upon any person who commits any other violation pertaining to the rules of this Division.

(3) In establishing a civil penalty greater than the minimum amount specified in sections (1) and (2) of this rule, the Director may consider any mitigating and aggravating factors as provided for in OAR 340-12-045.

(4) Any person planting contrary to the restrictions of subsection (1) of ORS 468.465 pertaining to the open burning of cereal grain acreage shall be assessed by the Department a civil penalty of \$25 for each acre planted contrary to the restrictions.

#### **Tax Credits for Approved Alternative Methods, and Approved Alternative Facilities**

340-26-030 [DEQ 114, f. & ef. 6-4-76;  
DEQ 138, f. 6-30-77;  
DEQ 6-1978, f. & ef. 4-18-78;  
DEQ 8-1978(Temp), f. & ef. 6-8-78 thru 10-5-78;  
DEQ 2-1980, f. & ef. 1-21-80;  
DEQ 12-1980, f. & ef. 4-21-80;  
DEQ 9-1981, f. & ef. 3-19-81;  
DEQ 5-1984, f. & ef. 3-7-84;  
Repealed by DEQ 12-1984, f. & ef. 7-13-84]

#### **Burning by Public Agencies (Training Fires)**

340-26-031 Open field burning on grass seed or cereal grain acreage by or for any public agency for official purposes, including the training of fire-fighting personnel, may be permitted by the Department on a prescheduled basis consistent with smoke management considerations and subject to the following conditions:

(1) Such burning must be deemed necessary by the official local authority having jurisdiction and must be conducted in a manner consistent with its purpose.

(2) Such burning must be limited to the minimum number of acres and occasions reasonably needed.

(3) Such burning must comply with the provisions of rules 340-26-010 through 340-26-013.

### **Preparatory Burning**

340-26-033 The Department may allow preparatory burning of portions of selected problem fields, consistent with smoke management considerations and subject to the following conditions:

(1) Such burning must, in the opinion of the Department, be necessary to reduce or eliminate a potential fire hazard or safety problem in order to expedite the subsequent burning of the field.

(2) Such burning shall be limited to the minimum number of acres necessary, in no case exceeding 5 acres for each burn or a maximum of 100 acres each day.

(3) Such burning must employ backfiring burning techniques.

(4) Such burning is exempt from the provisions of rule 340-26-015 but must comply with the provisions of rules 340-26-010 through 340-26-013.

### **Experimental Burning**

340-26-035 The Department may allow open field burning for demonstration or experimental purposes pursuant to the provisions of ORS 468.490, consistent with smoke management considerations and subject to the following conditions:

(1) Acreage experimentally open burned shall not exceed 5,000 acres annually.

(2) Acreage experimentally open burned shall not apply to the district allocation or to the maximum annual acreage limit specified in rule 340-26-013-(1)(a).

(3) Such burning is exempt from the provisions of rule 340-26-015 but must comply with the provisions of rules 340-26-010 and 340-26-012, except that the Department may elect to waive all or part of the \$2.50 per acre burn fee.

### **Emergency Burning, Cessation**

340-26-040 (1) Pursuant to ORS 468.475 and upon a finding of extreme hardship, disease outbreak, insect infestation or irreparable damage to the land, the Commission may by order, and consistent with smoke management considerations and these field burning rules, permit the emergency open burning of more acreage than the maximum annual acreage limitation specified in rule 340-26-013(1)(a). The Commission shall act upon emergency burning requests within 10 days of receipt of a properly completed application form and supporting documentation:



(a) Emergency open burning on the basis of extreme financial hardship must be documented by an analysis and signed statement from a CPA, public accountant, or other recognized financial expert which established that failure to allow emergency open burning as requested will result in extreme financial hardship above and beyond mere loss of revenue that would ordinarily accrue due to inability to open burn the particular acreage for which emergency open burning is requested. The analysis shall include an itemized statement of the applicant's net worth and include a discussion potential alternatives and probable related consequences.

(b) Emergency open burning on the basis of disease outbreak or insect infestation must be documented by an affidavit or signed statement from the County Agent, State Department of Agriculture or other public agricultural expert authority that, based on his personal investigation, a true emergency exists that can only be dealt with effectively and practicably by open burning. The statement shall also specify: time of field investigation; location and description of field, crop and infestation; extent of infestation (compared to normal) and the necessity for urgent control; availability efficacy, and practicability of alternative control procedures, and; probable consequences of non-control.

(c) Emergency open burning on the basis of irreparable damage to the land must be documented by an affidavit or signed statement from the County Agent, State Department of Agriculture, or other public agricultural expert authority that, based on his personal investigation, a true emergency exists which threatens irreparable damage to the land and which can only be dealt with effectively and practicably by open burning. The statement shall also specify: time of field investigation; location and description of field, crop, and soil slope characteristics; necessity for urgent control: availability, efficacy, and practicability of alternative control procedures, and; probable consequences of non-control.

(2) Pursuant to ORS 468.475 and upon finding of extreme danger to public health or safety, the Commission may order temporary emergency cessation of all open field burning in any area of the Willamette Valley.

#### **Approved Alternative Methods of Burning (Propane Flaming)**

340-26-045 (1) The use of propane flammers, mobile field sanitizing devices, and other field sanitation methods specifically approved by the Department are  
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considered alternatives to open field burning pursuant to the provisions of ORS 468.472 and 468.480, subject to the following conditions:

(a) The field must first be prepared as follows:

(A) Either the field must have previously been open burned and the appropriate fees paid; or

(B) The remaining field stubble must be flail-chopped, mowed, or otherwise cut close to the ground and the loose straw removed to the extent practicable;

(b) Propane flaming operations [~~must~~] shall comply with the following criteria:

(A) Unless otherwise specifically restricted by the Department, and except for the use of propane flamers in preparing fire breaks, propane flaming may be conducted only between the hours of 9 a.m. and sunset (9 a.m. to one-half hour before sunset on or after September 1).

(B) Every effort [~~must~~] shall be made to operate propane flamers in overlapping strips, crosswise to the prevailing wind, beginning along the downwind edge of the field.

(C) The remaining field stubble will not sustain an open fire.

(D) A fire permit must first be obtained from the local fire permit issuing agency.

(E) Every effort shall be made to conduct propane flaming in a manner which minimizes smoke emissions.

(F) No person shall cause or allow to maintain any propane flaming which results in visibility impairment on any Interstate highways or roadways specified in rule 837-110-080(1) and (2). Should visibility impairment occur all flame and smoke sources shall be immediately and actively extinguished.

(c) In addition to the conditions specified in paragraphs (a) and (b) of this section, propane flaming operations within any fire safety buffer zone shall comply with the following criteria:

(A) Propaning shall be conducted at a vehicle speed appropriate for complete combustion and minimum smoke emissions but should not exceed 5 miles per hour.

(B) No propaning shall be allowed when either the relative humidity at the nearest reliable measuring station exceeds 65 percent or the surface winds exceed 15 miles per hour.

(C) The presence of any regrowth in the field between 6 and 12 inches in height shall be mowed or cut close to the ground, and removed providing mechanical removal of the resultant fields residue is practicable. Any regrowth

exceeding 12 inches in height shall be mowed or cut close to the ground and removed.

(2) No person shall cause or allow to be initiated or maintained any propane flaming on any day or at any time if the Department has determined and notified the State Fire Marshal that propane flaming is prohibited because of adverse meteorological or air quality conditions.

(3) The Department may issue restrictive limitations on the amount, density or frequency of propane flaming in any area when meteorological conditions are unsuitable for adequate smoke dispersion, or deterioration of ambient air quality occurs.

(4) All propane flaming operations shall be conducted in accordance with the State Fire Marshal's safety requirements, as specified in OAR 837-110-100 through 837-110-160.

#### Stack Burning

340-26-055 (1) The open burning of piled or stacked residue from perennial or annual grass seed or cereal grain crops used for seed production is allowed, subject to the following conditions:

(a) No person shall cause or allow to be initiated or maintained any stack burning on any day or at any time if the Department has notified the State Fire Marshal that such burning is prohibited because of meteorological or air quality conditions. Unless otherwise specified by the Department, stack burning shall be subject to the same daily open burning schedule set forth and announced by the Department for "fourth priority agricultural burning" (which is separately governed under OAR Chapter 340, Division 23, Rules for Open Burning).

(b) A fire permit must be obtained from the local permit issuing agency.

(c) All residue to be burned must be dry to the extent practicable and free of all other combustible and non-combustible material. Covering the stacks is advised when necessary and practicable to protect the material from moisture.

(d) It shall be the duty of each responsible person to make every reasonable effort to extinguish any stack burning which is in violation of any rule of the Commission.

(e) No stack burning shall be conducted within any State Fire Marshal buffer zone "non-combustible ground surface" area (e.g., within 1/4 mile of Interstate I-5, or 1/8 mile of any designated roadway), as specified in OAR 837-110-080.

(2) Provided the conditions of this rule are met, stack burning is exempt from rules 340-26-010 through 340-26-015 and is therefore not subject to open field burning requirements related to registration, permits, fees, allocations, and acreage limitations.

TABLE 1  
(340-26-015)

MINIMUM ALLOWABLE EFFECTIVE MIXING HEIGHT  
REQUIRED FOR BURNING BASED UPON THE CUMULATIVE HOURS  
OF SMOKE INTRUSION IN THE EUGENE-SPRINGFIELD AREA

<u>Cumulative Hours of Smoke Intrusion</u> <u>In the Eugene-Springfield Area</u>	<u>Minimum Allowable Effective</u> <u>Mixing Height (feet)</u>
0 - 14	no minimum height
15 - 19	4,000
20 - 24	4,500
25 and greater	5,500

**DIVISION 110  
FIELD BURNING**

**Purpose and Scope**

837-110-005 The purpose of these rules is to increase the degree of public safety by preventing unwanted wild fires and smoke from field burning near highways and freeways within the State of Oregon. These rules shall apply to that area west of the crest of the Cascade Range and south to the Douglas/Lane County lines.

**Field Preparation**

837-110-010 (1) Prior to burning, all fields shall be prepared by plowing and disking a 20-foot noncombustible barrier around the perimeter.

(2) The 20-foot barrier may be provided by noncombustible vegetation, bare earth, or other method(s) to prevent any flame spread through the 20-foot barrier approved by the State Fire Marshal or designee.

(3) The barrier need not be provided where the perimeter of the field lies adjacent to a field that meets the provision of this section.

**Firefighting Water Supplies**

837-110-020 (1) When burning acreage, the following firefighting vehicles shall be provided:

(a) Up to 50 acres, at least two water tank vehicles with a minimum of 1,000 gallon water capacity to be on site.

(b) 50 to 200 acres, at least three water tank vehicles with a minimum of 1,500 gallon water capacity to be on site.

(c) Acreage over 200 acres, at least four water tank vehicles with a minimum of 3000 gallon water capacity to be on site.

(2) Refill Requirements: During actual firefighting operations the water requirements described in this section shall be maintained at or above 25% of the specified amount. Within the buffer zone described in 837-110-080, this requirement shall be raised to at least 50%.

**NOTE:** Vehicles with smaller capacity water tanks may be used to meet the total gallonage capacity required by (a) through (c) above.

**Firefighting Equipment**

837-110-030 The person(s) responsible for the acreage to be burned shall use firefighting equipment that meets or exceeds the following standards:

(1) All water tank vehicles shall be equipped with a pump in working order with a pumping capability of 30 gallons per minute or more and capable of extinguishing a flame at a distance of at least 40 feet.

(2) All firefighting vehicles shall be adequately staffed to assure proper operation. It is recommended that at least two employees who have received basic safety training be assigned to each firefighting vehicle.

(3) All water tanks shall be filled prior to ignition of the field.

**Ignition Criteria**

837-110-040 A minimum of two drip torches, propane lighters, or other pressurized fuel torches shall be on the burn site at the time of ignition.

### **Prohibited Use**

**837-110-050** The use of pitch forks, harrows, or the dragging of burning tires to ignite the fire is prohibited.

### **Communication**

**837-110-060** Radio communications shall be maintained between:

- (1) All firefighting equipment utilized in the burning of the field(s).
- (2) The crew at the burn site and a constantly manned base station or home that will receive a call for assistance and summon help from an appropriate emergency response agency.

### **Fire Safety Watch**

**837-110-070** In addition to the firefighting equipment required by OAR 837-110-020 and 837-110-030, a continuous fire safety watch shall be provided. The fire safety watch shall:

- (1) Patrol the perimeter of the field during burning operations.
- (2) Begin prior to the ignition of the field and continue for at least 30 minutes after open flame ceases. However, the fire watch shall not leave until it is confirmed that the fire is completely out.
- (3) Consist of at least one firefighting vehicle having a water tank with at least a 200 gallon water capacity and which meets the requirements of 837-110-030 and 837-110-060.

### **Fire Safety Buffer Zones**

**837-110-080** A fire safety buffer zone shall parallel both sides of all highways and roadways within the scope and application of these rules. The buffer zone shall extend 1/2 mile in a perpendicular direction from the outer edge of each highway or roadway right-of-way. No field burning shall be allowed in fire safety buffer zones except as provided in (1) and (2) below.

(1) Interstate Highways. West of the crest of the Cascade Range, south to the Douglas/Lane County lines.

(a) Field burning may be permitted in the fire safety buffer zone only where a 1/4 mile wide noncombustible ground surface is provided between the field to be burned and the nearest edge of the freeway right-of-way. Noncombustible ground surfaces shall meet the criteria described in (3) of this section.

(b) The 1/4 mile noncombustible ground surface shall extend 1/4 mile each direction beyond the permitted field boundaries parallel to the freeway right-of-way. Where natural barriers such as rivers or other noncombustible surfaces recognized by the State Fire Marshal or designee exist, extensions are not required.

(2) Other Roadways.

(a) Field burning may be permitted in the fire safety buffer zone only where a 1/8 mile wide noncombustible ground surface is provided between the field to be burned and the nearest edge of the highway right-of-way. Noncombustible ground surfaces shall meet the criteria described in (3) of this section.

(b) The 1/8 mile noncombustible ground surface shall extend 1/8 mile in each direction beyond the permitted field boundaries parallel to the highway right-of-way. Where natural barriers such as rivers or other noncombustible surfaces recognized by the State Fire Marshal or designee exist, extensions are not required.

(c) The designated roadways to which this section applies are:

- (A) ORE 99: The section from Junction City to Eugene
- (B) ORE 99E: The sections from Oregon City to Salem, and from Albany to Junction City
- (C) ORE 99W: The entire section from Portland to Eugene
- ORE 18: The section from
- ORE 22 to Dayton
- (D) US 20: The section from Philomath to Lebanon
- (E) ORE 22: The section from ORE 18 to Mehama
- (F) US 26: The section from ORE 47 interchange to Portland
- (G) ORE 34: The section from Corvallis to Lebanon

(3) Noncombustible ground surfaces mentioned in (1) and (2) above may be provided by planting noncombustible ground cover or by disking and plowing the surface. Other alternative methods may be recognized by the State Fire Marshal or designee.

#### **Ban on Burning**

**837-110-090** All field burning is banned when any two of the three criteria below are present:

- (1) Temperature of 95 degrees Fahrenheit or above
- (2) Relative humidity of 30 percent or below
- (3) Wind speed of 15 miles per hour or higher

## **PROPANING**

#### **Purpose and Scope**

**837-110-100** The purpose of these rules is to increase the degree of public safety by preventing unwanted wild fires and smoke from propaning near highways and freeways within the State of Oregon. These rules shall apply to that area west of the crest of the Cascade Range and south to the Douglas/Lane County lines.

#### **Field Preparation**

**837-110-110** (1) Prior to propaning, all fields shall be prepared by plowing and disking a 10-foot noncombustible barrier around the perimeter.

(2) The 10-foot barrier may be provided by noncombustible vegetation, bare earth, or other method(s) to prevent any flame spread through the 10-foot barrier if approved by the State Fire Marshal or designee.

(3) The barrier need not be provided where the perimeter of the field lies adjacent to a field that meets the provision of this section.

#### **Firefighting Water Supplies**

**837-110-120** When propaning acreage, the following safety measures shall apply:

(1) At least one firefighting water tank vehicle meeting the equipment requirements of 837-110-120 and 837-110-140 and which has a minimum water tank capacity of 200 gallons shall be on site.

(2) If additional firefighting assistance is more than five (5) minutes from a burn site within a fire safety buffer zone, or ten (10) minutes otherwise, then water tank capacity mentioned in (1) above shall be raised to 500 gallons.

(3) A means to refill the tanks mentioned in (1) and (2) above shall be provided within a ten (10) minutes turn-around time.

**EXCEPTION:** Water tank vehicles of smaller capacity may be used provided the total gallonage capacity complies with the above.

#### **Firefighting Equipment**

**837-110-130** The person(s) responsible for the acreage to be propaned shall use firefighting equipment that meets or exceeds the following standards:

(1) All water tank vehicles shall be equipped with a pump in working order with a pumping capability of 30 gallons per minute or more and capable of extinguishing a flame at a distance of at least 40 feet.

(2) All water tank vehicles shall be adequately staffed to assure proper operation. It is recommended that at least two employees who have received basic safety training be assigned to each firefighting vehicle.

(3) All water tanks shall be filled prior to ignition of the field.



### **Communication**

**837-110-140** (1) Radio communications shall be maintained:

- (a) Between all firefighting equipment utilized in the propaning of the field(s).
- (b) Between the crew at the propane site and a constantly manned base station or home that will receive a call for assistance and summon help from an appropriate emergency response agency.

### **Fire Safety Watch**

**837-110-150** A fire watch shall:

- (a) Begin following the propaning of the field and continue for 30 minutes after completion.
- (b) Consist of at least one firefighting vehicle with at least a 200 gallon water tank which is manned and equipped as stipulated in OAR 837-110-020, 837-110-030, and 837-110-060.

### **Ban on Burning**

**837-110-160** All propaning shall be banned when any two of the following criteria are present:

- (1) Temperature of 95 degrees Fahrenheit or above
- (2) Relative humidity of 25 percent or below
- (3) Wind speed of 20 miles per hour or higher

REQUEST FOR EQC ACTION
------------------------

Meeting Date: April 14, 1989  
 Agenda Item: \_\_\_\_\_  
 Division: Air Quality  
 Section: Field Burning

**SUBJECT:**

Request for authorization to conduct a public hearing on proposed Open Field Burning rules, OAR 340-26-001 through 340-26-055.

**PURPOSE:**

In conjunction with the State Fire Marshal's new Field Burning Rules, to improve public safety near open field burning, propane flaming, and stack burning operations, and to improve general air quality from increased propaning activity in the Willamette Valley.

**ACTION REQUESTED:**

- Work Session Discussion  
      General Program Background  
      Potential Strategy, Policy, or Rules  
      Agenda Item  for Current Meeting  
      Other: (specify)
- Authorize Rulemaking Hearing  
 Adopt Rules
- |                                      |                     |
|--------------------------------------|---------------------|
| Proposed Rules                       | Attachment <u>A</u> |
| Proposed Rules Incorporated          | Attachment <u>E</u> |
| Rulemaking Statements                | Attachment <u>B</u> |
| Fiscal and Economic Impact Statement | Attachment <u>B</u> |
| Public Notice                        | Attachment <u>C</u> |
- Issue a Contested Case Order  
 Approve a Stipulated Order  
 Enter an Order  
     Proposed Order Attachment \_\_\_\_\_

Meeting Date: April 14, 1989  
Agenda Item:  
Page 2

___ Approve Department Recommendation	
___ Variance Request	Attachment ___
___ Exception to Rule	Attachment ___
___ Informational Report	Attachment ___
___ Other: (specify)	Attachment ___

DESCRIPTION OF REQUESTED ACTION:

The Department of Environmental Quality and the State Fire Marshal developed new fire safety rules for open field burning and propane flaming at the request of Governor Goldschmidt following the multi-car accident on Interstate 5 south of Albany on August 3, 1988. On August 12, 1988, both the State Fire Marshal and the Environmental Quality Commission adopted temporary emergency rules which addressed this issue.

Recently, the State Fire Marshal's emergency rules were permanently adopted. These rules specify fire equipment, water supplies, and other requirements for conducting open field burning and propaning, particularly near highways and major roadways.

The Department's emergency rules were in effect for 180 days until March 12, 1989. These rules incorporated the "fire safety buffer zones" as defined by the State Fire Marshal, and required prior Department authorization for conducting open burning within these zones. The Department's rules included additional restrictions within the fire safety buffer zones that went beyond the State Fire Marshal's rules, specifically, to minimize smoke emissions from propane flaming operations.

Since the adoption of the Department's emergency rules last year, the Department observed an increase in propane flaming and stack burning within the fire safety buffer zones, due to the increased restrictions on field burning in these areas. The Department has also been monitoring the trend in increased propaning on a Valley-wide basis over the last several years. Therefore, in addition to last years' emergency rules, the Department is proposing tighter controls on propaning and prohibiting stack burning within the first half of the fire safety buffer zones.

Meeting Date: April 14, 1989  
Agenda Item:  
Page 3

**AUTHORITY/NEED FOR ACTION:**

<input type="checkbox"/> Required by Statute: _____	Attachment _____
Enactment Date: _____	
<input checked="" type="checkbox"/> Statutory Authority: _____	Attachment _____
<input type="checkbox"/> Pursuant to Rule: _____	Attachment _____
<input type="checkbox"/> Pursuant to Federal Law/Rule: _____	Attachment _____
<input type="checkbox"/> Other: _____	Attachment _____
<input type="checkbox"/> Time Constraints: (explain)	

**DEVELOPMENTAL BACKGROUND:**

<input type="checkbox"/> Advisory Committee Report/Recommendation	Attachment _____
<input type="checkbox"/> Hearing Officer's Report/Recommendations	Attachment _____
<input type="checkbox"/> Response to Testimony/Comments	Attachment _____
<input checked="" type="checkbox"/> Prior EQC Agenda Items: August 12, 1988; Proposed Emergency Rulemaking on Propaning	Attachment <u>D</u>
<input checked="" type="checkbox"/> Other Related Reports/Rules/Statutes: OAR 837-110, Fire Marshal	Attachment <u>F</u>
<input type="checkbox"/> Supplemental Background Information	Attachment _____

**REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:**

The proposed rule revisions should reduce smoke from propane flaming and stack burning near highways and major roadways, improving public safety and general air quality.

Some growers may be disadvantaged by the proposed rule to prohibit stack burning within the non-combustible area of the fire safety buffer zones. This would require either finding alternative methods to dispose of the straw, or moving the straw stack farther away from the highway/major roadway. Additional propaning restrictions within the fire safety buffer zones, and the proposal to impose further limits on propaning Valley-wide, may cause some growers greater inconvenience in time and expense.

Meeting Date: April 14, 1989  
Agenda Item:  
Page 4

**PROGRAM CONSIDERATIONS:**

The Department foresees many requests to authorize fields for open field burning in the second 1/4 mile of the fire safety buffer zone along Interstate 5 and the second 1/8 mile of the fire safety buffer zone along designated roadways. The proposed rules could require considerable additional staff time to evaluate meteorological conditions specific to the location of each field and to log each request and make final authorization.

Anticipated increased in propane flaming in the non-combustible portions of the fire safety buffer zones will require increased monitoring of Interstate 5 and designated highways by enforcement personnel to curtail operations creating visibility impairment.

**ALTERNATIVES CONSIDERED BY THE DEPARTMENT:**

The Department considered the following alternatives in drafting the proposed rules and amendments:

1. Relying solely upon State Fire Marshal's Open Burning Rules to address the issue of fire/public safety.
2. Permanent adoption of Department's Emergency Rules on field burning and propaning.
3. Including provisions not addressed in the original emergency rules, prohibiting stack burning in the non-combustible portion of the fire safety buffer zone, and restricting propane flaming amounts, density and location based on meteorological or air quality concerns.

**DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:**

The Department recommends that the Commission review proposed rule revisions and authorize public hearings to take place. This will provide the Department with public comment on the proposed rule revisions.

**CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:**

Not aware of conflict with any agency or legislative policies.

Meeting Date: April 14, 1989  
Agenda Item:  
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ISSUES FOR COMMISSION TO RESOLVE:

1. Should the Department be directly involved in on-site field burning authorizations along Interstate 5 and designated roadways?
2. Should the Department further restrict propaning based on meteorological or air quality considerations?
3. Should stack burning be prohibited in the non-combustible areas of the fire safety buffer zones?

INTENDED FOLLOWUP ACTIONS:

Actions on draft rules and amendments:

- File hearing notice with the Secretary of State
- Hold public hearing.
- Review oral and written testimony and revise proposed rules and amendments as appropriate
- Return to Commission for final rule adoption

Approved:

Section: \_\_\_\_\_

Division: \_\_\_\_\_

Director: \_\_\_\_\_

Report Prepared By: Jim Britton, Brian Finneran

Phone: 687-7837

Date Prepared: March 29, 1989

BF:x  
PLAN\AX809  
3/29/89

**AGENDA ITEM "F"**  
**TESTIMONY SUMMARIZATION**

STATE OF OREGON

INTEROFFICE MEMO

DEPARTMENT OF ENVIRONMENTAL QUALITY

TO: Environmental Quality Commission

DATE: May 24, 1989

FROM: Jim Britton, DEQ Hearings Officer

SUBJECT: Report for Hearing Held May 22, 1989

Proposed Adoption of Open Field Burning Rules, OAR  
340-26-001 through 340-26-055, as a Revision to the  
Oregon State Clean Air Act Implementation Plan

SUMMARY OF PROCEDURE

A public hearing was held May 22 1989, in Eugene to receive public comment on the proposed Open Field Burning Rules. Written and oral testimony was received from eleven citizens and four agencies or organizations. Jim Britton, Field Burning Program Manager, Department of Environmental Quality, presided at the hearing. Approximately thirty people attended.

SUMMARY OF TESTIMONY

Comment on the proposed rules can best be summarized by presenting the three positions expressed in the testimony: 1) those in support of the rules; 2) those in support but with specific objections to further regulations on propaning, straw stack placement outside the non-combustible area of the fire safety buffer zone, and perceived vague and inflexible language; and 3) those opposed to agricultural burning.

SUPPORT OF THE PROPOSED RULES

Donald Arkell, Director, of the Lane Regional Air Pollution Authority (LRAPA), spoke in favor of the proposed rules. He stated that LRAPA strongly sensed an increased air quality problem in both urban and rural areas caused by propaning. LRAPA favors prevention of smoke intrusions over reaction once an intrusion occurs, prompting their support of giving the Department increased authority to prohibit propaning. Mr. Arkell concluded that adequate attention paid to increasingly practiced alternatives to open field burning would further enhance the smoke management program.

Meeting Date : June 2, 1989  
Agenda Item: F

Marvie Tish, Permit Agent for several Lane County fire districts, recommended adoption of the proposed rule changes, indicating that rules are needed for the small percentage of negligent growers. Jim Lindly, Eugene resident, expressed his support for strict regulations on propane flaming and stack burning, stating that if it exists it should be closely monitored. Another Eugene resident, Dorthy Davis, encouraged stringent regulations to control propane flaming and stack burning along roadways. The proposed rule changes were endorsed by Eugenean Frank Drysdale, who further recommends that the west side buffer zone of I-5 be extended to as much as one mile.

#### SUPPORT OF THE PROPOSED RULES BUT WITH OBJECTIONS

Jerry Mullen, representing the Oregon Seed Council, expressed general support for the proposed rules but with strong objections to additional restrictive regulations on propane flaming. He stated that the industry cannot accept rules that arbitrarily change a practice identified as an approved alternative to open field burning. Mr. Mullen further objected to the wording of several proposed requirements. The industry felt it was overwhelming to be required to use every effort to conduct propane flaming in a manner which minimizes smoke emissions. The industry would like "every" replaced by "reasonable". Mr. Mullen stated that the term "visibility impairment" allowed a wide range of interpretation and suggested the entire section be deleted. The industry was concerned with the stack burning requirement that such activities be conducted outside the non-combustible ground surface area of a fire safety buffer zone. It was recommended that growers with fields entirely within that area be allowed to place stacks at the farthest point away from roadways within the buffer zones. Lack of flexibility would force some growers to place stacks on property they do not own.

Chuck Craig, Oregon Department of Agriculture (ODA), cited propaning as the only effective alternative thermal sanitization method currently available to growers. He also stated that planning was encouraged by the Department; planning took less time and expense was much less than open field burning; and there was increased reliance on the practice to support the ODA recommendation to continue the existing "go" or "no go" administrative rule provision.

Written and oral testimony from several growers echoed the concerns stated by Mr. Mullens and Mr. Craig. In addition, Dennis Glaser felt that restrictions on the east side of I-5 were unreasonable due to the predominant westerly wind direction during the burning season. Mr. Glaser also requested that standards be established for field regrowth rather than the proposed "any regrowth... between 6 and 12 inches... be mowed... and removed."



Meeting Date : June 2, 1989  
Agenda Item: F

OPPOSED TO AGRICULTURAL BURNING

Jan Wroncy, Residents of Oregon Against Deadly Sprays and Smoke, stated that Oregonians are guaranteed clean air and the DEQ has the authority to ban agricultural burning.

RESPONSE TO PUBLIC COMMENT

To minimize smoke emissions from propane flaming and stack burning within the State Fire Marshal's fire safety buffer zones, the Department believes that tighter controls are required. The proposed rule revisions should reduce smoke from these sources, improving public safety and general air quality near highways and major roadways. In the "non-combustible" portion of the fire safety buffer zone, a forced transition from open field burning to alternatives has occurred. This has prompted an increased use of propane flaming with the associated smoke that results from the practice. Increased propane flaming has led to more removal and burning of straw stacks along I-5 and other designated roadways.

The Department has identified several steps to be taken to improve fire safety along I-5 and designated roadways, and those steps, defined by the proposed rule changes, need to be implemented to protect public safety.

The Department regulates field burning activities to minimize smoke impacts, especially in populated areas. To do this, DEQ specifies the times, places and amounts of open field burning to be allowed. The Department feels that the equal regulation of the increasing practice of propane flaming is required to avoid increased occurrences of adverse air quality impacts from this source. In particular, the Department needs the authority to prohibit or decrease propane flaming activities upwind of populated areas when meteorological conditions are unsuitable, or ambient air quality deteriorates. This authority will allow the Department to prevent propane flaming smoke intrusions instead of reacting once an intrusion occurs.

After consideration, no changes have been adopted as a result of comments made at the May 22 1989, Public Hearing, or the written testimony received by the Field Burning Office prior to 5:00 p.m., May 23, 1989.

SUMMATION

1. New proposed rules were prepared to clearly define operational parameters in propaning and stack burning practices within the fire safety buffer zones along I-5 and other designated roadways. To help the Department prevent smoke intrusions from increased

Meeting Date : June 2, 1989

Agenda Item: F

propaning activities throughout the valley, controls were proposed for propane flaming when meteorological and air quality conditions warrant such action.

2. The proposed Open Field Burning Rules were presented to the Commission and authorized for public hearing on April 14, 1989. A hearing was held on May 22, 1989 in Eugene, Oregon, resulting in testimony from ten citizens and written comments from six others.
3. The majority of the testimony generally endorsed the proposed rules. There were a few specific objections to language addressing propaning and stack burning within the fire safety buffer zone, but these represented minor changes. Further control of propane flaming throughout the valley was objected to by several growers as it would affect their individual farm management practices, but the Department strongly feels that as propaning is increasingly practiced, the regulations must be further refined.
4. No changes have been incorporated into the proposed rules.

#### DIRECTOR'S RECOMMENDATIONS

Based on the above summation, it is recommended that the Commission adopt the proposed field burning rule changes (OAR 340-26-001 through 340-26-055) as a revision to the State Implementation Plan.

#### Attachments:

1. Statement of Need for Rulemaking
2. Hearing Officer's Report
3. Proposed Revisions to the Open Field Burning Rules  
(OAR 340-26-001 through 340-26-055)
4. Written testimony

AR204

Open Field Burning Rules Hearing

Eugene City Council Chambers, 9:30 a.m., May 22, 1989

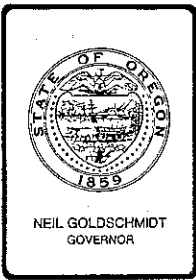
KEY: Position: S=Support SO=Support with objections OB=Opposed to burning

Presented Oral Testimony:

<u>Name</u>	<u>Affiliation</u>	<u>City</u>	<u>Position</u>
Jerry Mullen	Oregon Seed Council	St. Paul	SO
Marvie Tish	Permit Agents	Junction City	S
Howard Shirley	Public	LaGrande	S
Dennis Glaser	Grower	Tangent	SO
Mike Coon	Grower	Shedd	SO
Don Arkell	IRAPA	Springfield	S
Jan Wroncy	ROADS <sub>2</sub>	Eugene	OB
George VanLeeuwen	Grower	Halsey	SO
Frank Drysdale	Public	Eugene	S

Submitted Written Testimony:

Charles D. Craig	ODA	Salem	SO
Dean Freeborn	Grower	Rickreall	SO
Bill Radke	Grower	Shedd	SO
Dorothy Davis	Public	Eugene	S
Jim Lindly	Public	Eugene	S



*Executive Department*  
**STATE FIRE MARSHAL**

3000 MARKET STREET PLAZA - SUITE 534  
SALEM, OREGON 97310-0198

Fire Marshal	378-FIRE
Chief Deputy	378-2848
Administrator	378-4580
Accred./Standards	378-2871
Admin. Services	373-1276
Codes/Institutions	378-4917
Data/Public Ed.	378-4464
Fire Prev./Invest.	378-4917
Hazardous Materials	378-2885
Licensing/Permits	373-1871
Training	378-5210
FAX	(503) 378-FIRE

May 3, 1989

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAY 09 1989

Mr. Fred Hansen  
Department of Environmental Quality  
811 SW Sixth  
Portland, OR 97204

**AIR QUALITY CONTROL**

Dear Mr. Hansen:

I would like to take this opportunity to acknowledge your proposed rule revisions to Chapter 340, Division 26. This is an excellent example of two agencies meshing administrative rules together to form cohesive units to further public safety as well as provide cleaner air for the citizens of Oregon.

I will have a representative present at the public hearing to support your efforts in adopting the administrative rules. If we may be of further assistance to you, please contact this office.

Sincerely,

Olin L. Greene  
State Fire Marshal

OLG:co0567o

**RECEIVED**

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAY 08 1989

**OFFICE OF THE DIRECTOR**

5-19-89

DEQ -

I am writing to voice my support for strict regulations for the largely unregulated practice of propane flaming and stack burning.

Although I strongly disagree with the practice altogether, if it does exist in the near future, it should be closely regulated and monitored.

As a volunteer fireman, for seven years in McMinnville, OR, I can personally attest to the danger and frequency associated with fires I fought which began as "controlled" propane and field burns.

Sincerely,

Jim Lindly  
1035 Rio Glen  
Eugene, OR 97401

RECEIVED  
MAY 23 1989

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION  
FIELD BURNING OFFICE

 TELECOMM  
SYSTEMS, INC.

392 E. 3rd ■ P.O. Box 383 ■ Eugene, OR 97440

Environmental Quality Commission

DEQ propane flaming and stack burning hearing

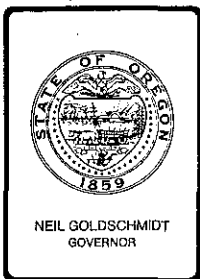
5/22/89

We farm and own property in the fire safety buffer zone west of Interstate 5. We are opposed to the adoption of paragraph 1 - e of the 1989 Propane Flaming and Stack Burning Rules , which would prohibit us from burning straw loaves on our fields bordering the freeway. Our fields do not quite extend beyond the 1/4 mile buffer zone, so we have no place to deposit and dispose of our clean-up loaves. After baling, the straw residue is picked up by Heston Stak-hand loafers. Approximately one loaf of straw is produced per 10 acres. Thus, the volume of material to be burned is very minimal. The loaves are placed on the far west boundary of the field. We feel that the placement and the small volume to be burned does not create a hazard on the freeway. The DEQ could control the timing and under which conditions the loaves are to be burned.

Bill and Trudy Radke

*Bill Radke*  
Radke Farms

Shedd, Oregon.



## Oregon Department of Agriculture

635 CAPITOL STREET NE, SALEM, OREGON 97310-0110

May 15, 1989

Mr. Jim Britton, Manager  
DEQ Field Burning Office  
1244 Walnut Street  
EUGENE OR 97403

Dear Jim:

The Department of Agriculture staff has reviewed the proposed amendments to the Open Field Burning Rules. Our main concern relates to the provision that would allow the DEQ to regulate the amounts, density and frequency of propane flaming operations in all areas of the Willamette Valley.

Propaning is the only effective alternative thermal sanitization method available to the growers at this time, and DEQ has encouraged its use. Pressure to reduce and eliminate field burning is forcing the growers to adopt this practice to a much wider degree. In fact, within the next five years, there may well be more propaning than open burning; however, propaning is very slow and expensive in comparison to open burning and must be accomplished early in the post-harvest season to be an effective means of field sanitization. If there are significant reductions in time available to the growers for the accomplishment of propaning, it will cease to be a workable alternative means of field sanitization.

Under the current rules, as well as the amendments that have been proposed, improved propaners, mobile field sanitizers, and other field sanitizing methods approved by the department are lumped together as a methodology generically called propaning. This provides little incentive to adopt improved methods.

We believe that to preserve the viability of propaning, and to provide an incentive for developing improved equipment and techniques, the rules should provide for continued "go or no go" regulation of propaning and other alternative sanitization methods that meet certain air pollution performance criteria (i.e., emissions or opacity standards), provided that the methods are being performed according to principles of good practice.

Thank you for your consideration of our comments.

Sincerely,

Charles D. Craig  
Smoke Management Program Manager  
Soil and Water Conservation Division  
(503) 378-3810

CC/iyL89H

RECEIVED

MAY 17 1989

DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR QUALITY DIVISION  
FIELD BURNING OFFICE

TESTIMONY  
DEQ PROPOSED FIELD BURNING RULES  
PUBLIC HEARING  
May 22, 1989

My name is Donald Arkell. I am the Director of the Lane Regional Air Pollution Authority. Thank you for the opportunity to comment on the proposed field burning regulations.

We believe that the Fire Marshal-related rules should and do address the safety issues. In particular, we support the idea of stack burning being prohibited inside the buffer zones.

Our comments on the proposed rules will be confined to the issues of propaning and stack and pile burning.

We know that the incidence of propaning has increased over the past several years, to the point where between 60,000 and 80,000 acres were treated by this method last summer. As the agency responsible for air quality control in Lane County, LRAPA strongly senses an increased air quality problem caused by propaning, not just in the Eugene-Springfield metropolitan area, but, more noticeably, in the outlying areas that include Marcola, Veneta and Elmira. We know, based on observations, that propaning produces a more diffuse, low level smoke impact. Several times during the past two summers we have received citizen complaints or noticed increased visibility impairment on days when open field burning was prohibited, yet propaning was allowed. Our concern is that propaning, just like open field burning, has its own adverse air quality impacts.

We strongly support regulation of propaning. In particular, we support giving the Department the authority to prohibit propaning based on meteorological conditions, thus preventing intrusions rather than curtailing or halting the practice once an intrusion occurs.

In a related matter, we hope that pending legislation incorporating a "needs test" which would further regulate the amount of propaning, is approved. Such a test should be based on the demonstrated need to control disease.

We offer these views with the caution that as experience grows, additional rules may be needed, even if propaning is an interim practice.

With these general observations in mind, we would offer the following specific recommendations with regard to the proposed regulations:

- \* Increase the number of monitoring sites. Apply performance standards for those areas at the edges of the urban area in Lane County (Veneta, Elmira, Marcola) and throughout the rest of the valley, to adequately protect sensitive areas from propaning smoke. Right now, smoke impacts from



propaning are not even in the data base, but we have observed that such impacts are real enough.

- \* A performance standard for stack and pile burning, beyond just treating it as agricultural burning, should be adopted. This could include opacity standards and special stack preparation criteria. Stack burning should continue to be viewed as a method of waste disposal. The current push to develop uses for straw should continue, and the practice should eventually be eliminated.

In conclusion, we appreciate the Department's past efforts in carrying out the legislative mandate to manage smoke from field burning. We feel that adequate attention paid to increasingly practiced alternatives to open field burning would further enhance the smoke management program.

May 22, 1989

To: Oregon Department of Environmental Quality  
522 SW 5th St.  
Portland, Ore.  
From: Geo. VanLeeuwen  
27070 Irish Bend,  
Halsey, Ore. 97348

Ladies and Gentlemen;

With regard to the proposed rule revisions on field burning, propaning, and stack burning, I would like to suggest the following changes in the proposed changes:

Under "Definitions" 340-26-005 (27)(e) after the word "Brownsville" add "to US Highway 99E." and delete the rest of the paragraph. My understanding is that Ore. 228 ends at 99E and the road west of 99E is American Drive. Nearly all of the traffic on American Drive is local and routine James River, Pope and Talbot traffic and is much less than on Ore.228. If this part of American Drive is to be included, only the the five fields lying south of the road should be affected, because there is almost zero possibillity that the fields north of the road would be burned on a north wind day in this area.

Under 340-26-045 (1)(b)(E) insert "reasonable and practical" after the word "Every". As proposed, the sentence could be interpreted to practically eliminate propaning, which in my opinion, is a much less effective but at present about the only practical alternative to open burning from the standpoint of weed, volunteer, and disease control.

At the end of proposed section (3) add, "However, to encourage shifting propane operations to the early part of the season when conditions are usually most favorable for least emissions, early season limitations shall be minimal as possible consistent with public safety".

Sincerely,

  
Geo. VanLeeuwen

May 22, 1989

EQC Hearing

9:30 a.m. to Noon

I. Introduction

- A. Jerry Mullen of Mullen Farms from St. Paul, Oregon, representing the Oregon Seed Council.
- B. Thank you for the opportunity to express my concerns and the concerns of the industry as regards the rule changes proposed.

General Concerns:

The industry is very concerned about rules that can arbitrarily change the practices that now affect farm operations. Propane flaming has been identified as an "approved" alternative to open field burning and farmers have been encouraged to use propane flaming rather than open burning for field sanitation. Propane flaming is quite time consuming in comparison to open burning and delays resulting from additional definitions and restrictive rules are quite unacceptable to the industry.

Let me be specific as to the industry concerns regarding the rule revisions. Under definitions 340-26-005 the definition for fire safety buffer zone would have the same meaning as the Fire Marshall definition, however, Oregon highway 228 from its junction south of Brownsville to its rail crossing at the community of Tulsa has been arbitrarily added to the list of roads designated by the State Fire Marshall. We feel that highway 228 should be removed to remain consistent with the Fire Marshall designated roads affected by the buffer zone.

Under section 340-26-045 "approved " alternate methods of burning (namely propane flaming) section (1)(b)(E) states that "every effort" shall be made to propane flame minimizing smoke emissions. We feel that "every" should be deleted from this statement and the word "reasonable" be added. Every method conceived of for propane burning could be quite overwhelming.

Sub section (1)(b)(F) also uses the term "visibility impaired". This leaves a wide range of interpretation by the field inspectors. Some may apply this type of definition to mean any smoke at all regardless of any imminent hazard present or not. This type of standard is not applied to other industries such as mills along roadways. This entire section is vague and should be deleted.

Sub section (1)(c) regarding propane flaming in the fire safety zones (B) deals with wind speed of 15 mph and 65% humidity. The Fire Marshall's definition is 20 mph wind speed. The 15 mph should be deleted and 20 mph added.

As for the 65% humidity, it is a common practice within the industry to propane burn early in the morning around buildings, stacks of straw, and away from hazards such as roadways. Being a

"fire safety zone", and safety being the primary concern, to restrict this safety practice because of a 65% humidity does not seem to follow. Allowances should be made for preparatory propane burning.

In my opening introduction, I mentioned that I farm in the St. Paul area. St. Paul, and the immediate surrounding areas, were among the first to utilize propane flaming as an alternative to open field burning. Propane burning has been wide spread in our area for about 12 to 15 years, when open burning was very restrictive and propane burning was encouraged as an alternative. The St. Paul area and the nearby communities generally have smaller grass seed farms than is typical of the mid to south valley. Propane flammers can be found on almost every seed farm in our area. So the number or density of propane operations in our area is probably the highest of any of the seed producing areas. Over the years this relative high density of propane burners has produced very little impact. The language in (3) where the density and frequency of propane flaming in any area can be limited by the Department's judgement is vague and tends to undermine the credibility of actually using "approved alternatives" to field burning. As other methods of field sanitation are developed, will they too be "limited" at the judgement of the Department? This type of arbitrary addition to the rules destroys the good faith of the Department when alternatives to open field burning are indeed developed and large investments are made by growers. One must wonder when an approved method is adopted if, in fact, one will be able to use the "approved alternative".

Section (4) sub section (1)(e) should also be amended to allow a grower who's field lies 100% within the fire safety zone to place stacks at the farthest point away from roads within the buffer zone and still be allowed to burn those stacks. Without this type of flexibility growers would have to place stacks on property they do not own.

In closing, the way one grower put the burning problem was that propane burning was an approved alternative to open burning, and the alternative to propane flaming was nothing. Thank you again for the opportunity to express the industry concerns to the various rule changes.

Jerry Mullen  
Oregon Seed Council

5/22/89

TESTIMONY ON PROPOSED PROPANE REGULATIONS

My name is Dean Freeborn. I farm in the Rickreall area. The main thing I'd like to say is that propaning of grass seed fields was told to us that it was an alternative for us to use rather than open burning. I switched to this method, purchasing a propaner, and hiring the straw removed from the field. Being a small grower, as many are in my area, this has worked well.

Now it appears that you want to regulate propaning much like open burning. Propaning should be left alone as the alternative to open burning. There may be some room for improving things, but one of your proposals is a slip backwards.

Saying that a propaner should not travel faster than to allow for total combustion stops me from doing what I learned over the past four years, to reduce smoke from my propaning operation. I run over my turf tall fescue twice. The first time to dry it out, dehydrate it, and at this time, not to burn it. The next day or two, depending on weather conditions, I will come back in, go slower, and burn the field totally.

The first burning dries the green and moisture out of the plants and then when I come back in the second time it burns quickly, hotter, and produces far less smoke. Your new recommendation appears to stop me from doing this; a way I've learned produces less smoke, not more. Doesn't make any sense to me.

Leave propaning alone as our alternative to produce good clean seed.

Thank You,

Dean Freeborn

ADDENDUM TO STAFF REPORT  
AGENDA ITEM G -- GASOLINE VOLATILITY PROPOSED RULE

The attached Attachment A replaces the version in the staff report. The differences are in the starting date, June 1 rather than May 15. And in percent alcohol content for gasohol, greater than 9% rather than 10%. This will more closely align the rule with that adopted by EPA last March, and currently in force.

In addition, written comment on the proposed rules was received from Herman & Associates, Washington DC. These comments should have been included in the Hearing Officer's report, but were misdirected. Herman & Associates supported an allowance, such as is now proposed for gasohol blends.

Attachment A

STANDARD FOR AUTOMOTIVE GASOLINE  
(the following is all new material)

OAR 340-22-300 Reid Vapor Pressure for Gasoline

(1) (a) No person shall sell or supply as a fuel for motor vehicles, during the period of June 1 through September 15 of each year, a gasoline having a Reid Vapor Pressure greater than ten and a half pounds per square inch (10.5 psi).

(b) This section shall not apply to gasoline delivered to retail outlets more than 14 days immediately preceding the periods established.

(c) Gasoline and ethyl alcohol blends of at least 9% by volume (gasohol) are given a one pound per square inch allowance, so as not to exceed an RVP of 11.5 psi.

(2) (a) As used in this regulation, "gasoline" means any blend of petroleum distillate sold as a motor fuel having a Reid Vapor Pressure of more than four pounds as defined by the most current method of ASTM Method D 323, and meeting the other general specifications defined by the most current method of ASTM D 439 or D 4814.

(b) ASTM refers to the standards test methods and procedures published by the American Society for Testing and Materials.

(3) The Reid Vapor Pressure specified in paragraph (1) of this section shall be measured according to the procedures established in the most current method of ASTM D 323.

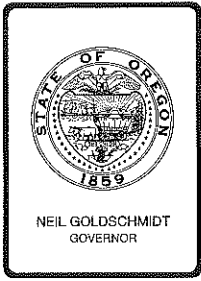
(4) The geographic coverage of this regulation shall be consistent with boundary specified in ASTM D 439, specifically all of Oregon, west of 122 degrees Longitude.

(5) Samples submitted to the Department by refiners or distributors of gasoline shall be sampled and tested pursuant to methods established by the most current method of ASTM D 323.

(6) The Department reserves the right to audit records and to sample gasoline for the purposes of compliance. Samples of petroleum shall be sampled pursuant and tested by methods established by the most current method of ASTM D 323 or by methods established under the California Air Resources rule, Title 13 §2251 or Part 80 of Title 40 of the Code of Federal Regulations - Fuel and Fuel Additives.

(7) Pursuant to ORS 468.130, civil penalties of not more than \$10,000 per day may be assessed for violation of paragraph 1 of this section at wholesale fuel facilities, including terminals, fleet facilities, cardlocks, and not more than \$2500 per day at retail.

(8) The effective date of this section is June 15, 1989.



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: June 2, 1989  
Agenda Item: G  
Division: Air Quality  
Section: Vehicle Inspection

#### SUBJECT:

Gasoline Volatility -- Proposed Adoption of a Rule to Limit the Volatility (Vapor Pressure) for Motor Vehicle Fuels

#### PURPOSE:

To reduce the release of volatile organic compounds (VOC) from gasoline. By establishing a maximum limit of gasoline volatility for the summer months, this will reduce the VOC emitted and will help meet the ambient air health ozone standard for 1989 and future years. The gasoline sold in Oregon, will have a maximum Reid Vapor Pressure (RVP) of 10.5 psi from May 15 through September 15 of each year. During 1989, the effective dates of the regulation would be between June 15 and September 15. The rule defines sampling methods and establishes a civil penalty structure.

#### ACTION REQUESTED:

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item  for Current Meeting
  - Other: (specify)
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment A
  - Rulemaking Statements Attachment B
  - Fiscal and Economic Impact Statement Attachment B
  - Public Notice Attachment C
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment
- Approve Department Recommendation
  - Variance Request Attachment
  - Exception to Rule Attachment
  - Informational Report Attachment
  - Other: (specify) Attachment



DESCRIPTION OF REQUESTED ACTION:

Adopt the proposed rules on gasoline volatility.

AUTHORITY/NEED FOR ACTION:

___ Required by Statute: _____	Attachment ___
Enactment Date: _____	
<u>X</u> Statutory Authority: <u>ORS 468.295</u>	Attachment <u>D</u>
(Recap summary included in Attachment F)	
___ Pursuant to Rule: _____	Attachment ___
___ Pursuant to Federal Law/Rule: _____	Attachment ___
___ Other: _____	Attachment ___
___ Time Constraints: (explain)	

DEVELOPMENTAL BACKGROUND:

___ Advisory Committee Report/Recommendation	Attachment ___
<u>X</u> Hearing Officer's Report/Recommendations (Copies of Written Testimony Attached to Commission Copies Only)	Attachment <u>E</u>
<u>X</u> Response to Testimony/Comments	Attachment <u>F</u>
<u>X</u> Prior EQC Agenda Items: (list) March 3, 1989 EQC Agenda Item F (Commission Copies Only)	Attachment <u>G</u>
___ Other Related Reports/Rules/Statutes:	Attachment ___
___ Supplemental Background Information	Attachment ___

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The regulation will require that gasoline sold during the summer months not exceed a 10.5 psi Reid Vapor Pressure (RVP) limit. This regulation was originally proposed as a backup plan to an Environmental Protection Agency (EPA) notice of proposed rulemaking (NPRM) of August 1987. EPA adopted its regulation March 22, 1989.

Testimony received at the public hearing generally supported Oregon's proposed regulation. Changes in the regulation, from the March 3, 1989 draft, were made to address suggestions from Western States Petroleum Association (WSPA), the Oregon Farm Bureau, the Lung Association of Oregon and EPA. The changes correct the timing of the Oregon regulation to be consistent with EPA's regulation. The reference to American Standard Test Methods (ASTM) was changed to reflect the most current methods of ASTM test procedures. A one (1) psi allowance for alcohol blended fuels was added. EPA regulations allow for this alcohol exemption, and the hearings authorization staff report noted a need to examine

this issue at a future date. Comments from the Farm Bureau and EPA suggested the one (1) psi allowance be added at this time.

Testimony supplied by WSPA focused on the issues of sampling and enforcement. They suggested that the most cost-effective method of audit was to have the industry report RVP measured at the refinery gate or terminal inlet. They reasoned that this was equivalent to sampling 250 service stations. They also suggested that the penalty structure in the rule proposal be changed. The original penalty structure in the rule proposal called for a maximum \$10,000 per day civil penalty assessment. WSPA suggested a three tiered penalty structure: \$10,000 per day at the refinery, \$5,000 per day at the terminal, and \$250 per day at the service station.

Based upon the comments from WSPA, the civil penalties in the rule proposal were modified. WSPA suggested a three tiered penalty system, with different levels for refineries, wholesale, and retail outlets. The structure proposed in the regulation presented to the Commission takes that suggestion into account. The regulation now contains provisions for a maximum civil penalty of up to \$10,000 per day for wholesale distribution, and \$2,500 per day for retail outlets. WSPA disagrees with this penalty level for retail establishments. Discussion is included in Attachment F. For purposes of definition and to provide a measure of consistency with Oregon's self-service laws, cardlock fuel stations are classified as wholesale outlets.

Wording was added in section (5) of the proposed rule. The intent of the added wording was to clarify that refiners, terminals, or distributors of fuel in Western Oregon needed to monitor and report to the Department results of RVP analyses for gasoline to be sold.

**PROGRAM CONSIDERATIONS:**

In the hearings request report, Attachment G, the enforcement mechanism outlined contemplated a reporting requirement from the refinery/terminal to DEQ. The reporting would be on a monthly basis, reporting the actual RVP of gasoline sold and distributed into western Oregon. Monthly reports would be mailed to the Department in a timely manner to insure discrepancies were quickly resolved. If needed, the Department would seek air permit modifications as required to insure proper notification.

If the refiner/terminal records showed excessive vapor pressure, penalties could be imposed consistent with the Department's enforcement authority. The Department would have the right to audit refinery, terminal, and related distribution system to insure the accuracy of the reports. This authority would include the right to sample throughout the distribution system in Oregon from the terminal to retail gas stations.

The DEQ lab has indicated that it could acquire a machine capable of testing RVP for approximately \$5,000. Its charge for testing would be in the neighborhood of \$25 per test. Petroleum sources indicate that the capital costs to acquire an automated machine capable of measuring vapor pressure is about \$20,000. Testing of gasoline samples is available on the commercial market. The cost for such services, available out of state, are in the range of \$50-100 per sample. EPA has announced that it is intending some field monitoring in 1989, but their monitoring effort will be limited in scope.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

The Department has compared its draft regulation with that adopted by EPA on March 22, 1989. The Department is proposing that only the western part of the state be included. Under the EPA regulation, the entire state is considered as one vapor pressure control area.

The Department has reviewed the options of having a state volatility regulation, or deferring to EPA's regulation. The Department has reviewed the level of enforcement activity that it will follow. Regardless of Commission action, the federal requirement for a 10.5 psi RVP gasoline will include Western Oregon during the summer of 1989.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The recommendation to the Commission is to enact the regulation as modified. Every effort to minimize the risk of ozone exceedances during the critical 1989 ozone season must be made.

A good volatility control program will give the state more flexibility in dealing with the various mobile hydrocarbon sources. The parallel action of the state compliments the federal effort, and will provide flexibility in the future, should EPA stall on the announced long term goal of reducing RVP to 9 psi in the future.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Having a strong control of vapor emissions from gasoline is consistent with legislative and agency policy. This action helps achieve the ambient health standards mandated by the Clean Air Act.

ISSUES FOR COMMISSION TO RESOLVE:

1. The Commission has two clear choices for this rule proposal. The Commission can adopt the rule and have a state regulation that addresses gasoline volatility, or the Commission may defer action.

The Commission can implement these regulations for vapor pressure control of gasoline. This will give the Department the authority to implement an enforcement program. If the Department does implement this regulation, it is expected that federal enforcement activities on fuel volatility in Western Oregon will defer to the state.

Should the Commission defer action, gasoline will still be regulated to the same volatility standard as is proposed in this regulation because of EPA's action March 22, 1989, unless EPA is sued. EPA enforcement efforts are anticipated to be centered in the east and southern parts of the country during 1989 and into 1990; so it is expected that EPA will conduct a minimal enforcement effort in the Pacific Northwest.

2. Should the Commission adopt these regulations, the Commission can decide on the appropriate civil penalty structure and levels. The Department has proposed a maximum of \$2,500 per day at retail. WSPA has suggested that \$250 per day is more appropriate.

Meeting Date: June 2, 1989  
Agenda Item: G  
Page 6

INTENDED FOLLOWUP ACTIONS:

Insure the appropriate implementation of this regulation through an audit of the analysis of RVP of gasoline taken from terminals, and the monitoring of fuel throughout the distribution system. The Department will continue to monitor summer ozone levels.

Approved:

Section: Ron Householder wjt  
Division: Nick Dioso  
Director: Lydia Taylor

Report Prepared By: William P. Jasper

Phone: 229-5081

Date Prepared: May 15, 1989

WPJ:r  
VIP\AR87  
5/15/89

Attachment A

STANDARD FOR AUTOMOTIVE GASOLINE  
(the following is all new material)

OAR 340-22-300 Reid Vapor Pressure for Gasoline

(1) (a) No person shall sell or supply as a fuel for motor vehicles, during the period of May 15 through September 15 of each year, a gasoline having a Reid Vapor Pressure greater than ten and a half pounds per square inch (10.5 psi).

(b) This section shall not apply to gasoline delivered to retail outlets more than 14 days immediately preceding the periods established.

(c) Gasoline and ethyl alcohol blends of up to 10% (gasohol) are given a one pound per square inch allowance, so as not to exceed an RVP of 11.5 psi.

(2) (a) As used in this regulation, "gasoline" means any blend of petroleum distillate sold as a motor fuel having a Reid Vapor Pressure of more than four pounds as defined by the most current method of ASTM Method D 323, and meeting the other general specifications defined by the most current method of ASTM D 439 or D 4814.

(b) ASTM refers to the standards test methods and procedures published by the American Society for Testing and Materials.

(3) The Reid Vapor Pressure specified in paragraph (1) of this section shall be measured according to the procedures established in the most current method of ASTM D 323.

(4) The geographic coverage of this regulation shall be consistent with boundary specified in ASTM D 439, specifically all of Oregon, west of 122 degrees Longitude.

(5) Test results from samples submitted to the Department by refiners or distributors of gasoline shall be sampled and tested pursuant to methods established by the most current method of ASTM D 323. Analysis of all fuel from pipeline, tanker, or other sources outside of the state shall be summarized and forwarded to the Department on a monthly basis. Such reports will be supplied on a form supplied by the Department.

(6) The Department reserves the right to audit records and to sample gasoline for the purposes of compliance. Samples of petroleum shall be sampled pursuant and tested by methods established by the most current method of ASTM D 323 or by methods established under the California Air Resources rule, Title 13 §2251 or Part 80 of Title 40 of the Code of Federal Regulations - Fuel and Fuel Additives.

(7) Pursuant to ORS 468.130, civil penalties of not more than \$10,000 per day may be assessed for violation of paragraph 1 of this section at wholesale fuel facilities, including terminals, fleet facilities, cardlocks, and not more than \$2500 per day at retail.

(8) The effective date of this section is June 15, 1989.

## Attachment B

### Statement of Need and Fiscal and Economic Impact Required for Rulemaking

#### Statement of Need:

The Portland metropolitan area remains in non-attainment for ozone, as designated by EPA. Because of this non-attainment status, additional controls on ozone precursor VOC emissions are proposed. The high volatility of gasoline in the summer months increases the emissions from gasoline sales from vehicular and fuel evaporative losses. Because of the environmental impact on the health of area residents and the potential economic impacts associated with non-attainment status, there is a need to insure compliance with the ozone standard during the 1989 ozone season and beyond.

#### Statutory Authority:

This rule is being proposed under the Environmental Quality Commission's authority, pursuant to ORS 468.295.

#### Documents Relied Upon:

EPA Notice of Proposed Rulemaking on the subject of Fuel Volatility, August 19, 1987. EQC Agenda Item 1, January 19, 1989. ASTM D 439, Standard Specification for Automotive Gasoline. California Air Resources Board administrative rules, Title 13, §2251.

#### Land Use Consistency:

The proposed rule appears to affect land use and to be consistent with Statewide Planning Goals.

With regard to Goal 6, Air, Water, and Land Resources Quality, this rule is designed to improve and maintain air quality and is consistent with that goal.

#### Fiscal and Economic Impact Statement:

**Who is directly impacted, and where is the impact?** The petroleum refiners who manufacturer and supply the fuel are directly affected. The petroleum industry, based primarily in Puget Sound, will need to reformulate gasoline composition in order to have a product which meets the proposed standard. It will do this by substituting more expensive components for cheaper, more volatile butane.

**Who is indirectly impacted, and where is the impact?** The general public will benefit from this proposal because of the compliance with national air quality ozone standards.

The motoring public will be impacted because of the price increase associated with the change in gasoline formula. The increase is estimated to be about 1¢ per gallon at the pump. Some industry sources indicate that this cost estimate may be low. The cost increase is due to pass through costs from manufacture.

Some of the cost increase should be recouped from potential increased fuel economy. However, such fuel economy gains, on the order of 1%, would not normally be noticed by the average motorist.

Small businesses will benefit from attainment of the air quality standards. Attainment means that economic sanctions would not be applied in this region, and this should provide a favorable climate for business expansion. Small businesses will experience increased costs due to increased fuel cost.

Large business will benefit from attainment in the same manner as small business. Cost increases will be similar.

Local Government will benefit from attainment in the same manner as business. Cost increases will be similar.

State Governments will benefit from attainment. Redesignation to compliance would free state government from the onerous requirements EPA has proposed for areas that continue to violate the ozone standard beyond 1987. The implementation of this limit on fuel volatility will provide a significant decrease in pollutant emissions; however, the effects of meteorology play a very large role in ozone formation and, therefore, attainment cannot be guaranteed. Because of petroleum marketing areas, this rule is estimated to impact all of western Oregon and Washington. As such, the State of Washington will receive air pollution benefit from reduced VOC emissions earlier than if they were to wait for EPA action. This will benefit air quality in the Seattle area.



*Oregon Department of Environmental Quality*

# **A CHANCE TO COMMENT ON...**

**NOTICE OF PUBLIC HEARING**      OAR 340-22-300

Hearing Date:    April 17 and 19, 1989  
Comments Due:    April 21, 1989

**WHO IS  
AFFECTED:**

Refiners and distributors of gasoline are directly affected, and will need to modify the blends of gasoline sold during the summer months. Motorists and other users of gasoline will be indirectly affected by this proposal, because the refiner's costs will be passed through to the ultimate user. The price of gas could increase 1¢ per gallon.

**WHAT IS  
PROPOSED:**

The Department of Environmental Quality is proposing to adopt OAR 340-22-300 to establish a standard for automotive gasoline. The proposal would establish a maximum Reid Vapor Pressure for automotive gasoline of 10.5 psi during the period of May 15 through September 15. Because of the way gasoline is marketed, this would apply to all Oregon, west of 122° longitude (west of the Cascades). The effective date for 1989 would be June 15, 1989. Sampling procedures and civil penalty authority is included.

**WHAT ARE THE  
HIGHLIGHTS:**

During the past 15 years, the volatility of gasoline, as measured by a test called Reid Vapor Pressure, has been increasing. Gasoline vapors from marketing and on vehicle evaporative losses are significant contributors to concentrations of ground level ozone in the Portland area. Reducing the volatility of gasoline to previously manufactured levels can be of significant benefit in state efforts to meet the federal ozone health standard.

A maximum Reid Vapor Pressure of 10.5 psi would be established. Refiners and distributors of automotive gasoline would need to supply and sell the reduced volatility gasoline during the summer months. This is estimated to provide a 5000 kg/day VOC emission reduction, and help insure compliance with the ozone standard.

Why would it cost more? The refinery cost increases, due to gasoline reformulation, would be expected to be passed through to gasoline users. Studies at the national level have indicated that this could result in about a 1¢ per gallon price increase. Some petroleum industry sources have indicated that the cost may be higher.

C-1



811 S.W. 6th Avenue  
Portland, OR 97204

11/1/86

**FOR FURTHER INFORMATION:**

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

HOW TO  
COMMENT:

Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland 811 S.W. Sixth Avenue or the regional office nearest you. For further information contact Bill Jasper at (503) 229-5081.

Public hearings will be held before a hearings officer at:

10:00 a.m.	7:00 p.m.
April 17, 1989	April 19, 1989
Portland Building Auditorium	Portland Building Auditorium
1120 SW Fifth	1120 SW Fifth
Portland, Oregon	Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ, but must be received by no later than April 21, 1989.

WHAT IS THE  
NEXT STEP:

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in June 2, 1989, as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

AK1354 (2/89)

468.295 Air purity standards; air quality standards. (1) By rule the commission may establish areas of the state and prescribe the degree of air pollution or air contamination that may be permitted therein, as air purity standards for such areas.

(2) In determining air purity standards, the commission shall consider the following factors:

(a) The quality or characteristics of air contaminants or the duration of their presence in the atmosphere which may cause air pollution in the particular area of the state:

(b) Existing physical conditions and topography;

(c) Prevailing wind directions and velocities;

(d) Temperatures and temperature inversion periods, humidity, and other atmospheric conditions;

(e) Possible chemical reactions between air contaminants or between such air contaminants and air gases, moisture or sunlight;

(f) The predominant character of development of the area of the state, such as residential, highly developed industrial area, commercial or other characteristics;

(g) Availability of air-cleaning devices;

(h) Economic feasibility of air-cleaning devices;

(i) Effect on normal human health of particular air contaminants;

(j) Effect on efficiency of industrial operation resulting from use of air-cleaning devices;

(k) Extent of danger to property in the area reasonably to be expected from any particular air contaminants;

(l) Interference with reasonable enjoyment of life by persons in the area which can reasonably be expected to be affected by the air contaminants;

(m) The volume of air contaminants emitted from a particular class of air contamination source;

(n) The economic and industrial development of the state and continuance of public enjoyment of the state's natural resources; and

(o) Other factors which the commission may find applicable.

(3) The commission may establish air quality standards including emission standards for the entire state or an area of the state. The standards shall set forth the maximum amount of air pollution permissible in various categories of air con-

taminants and may differentiate between different areas of the state, different air contaminants and different air contamination sources or classes thereof. (Formerly 449.735)

468.300 When liability for violation not applicable. The several liabilities which may be imposed pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.235, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter upon persons violating the provisions of any rule, standard or order of the commission pertaining to air pollution shall not be so construed as to include any violation which was caused by an act of God, war, strife, riot or other condition as to which any negligence or wilful misconduct on the part of such person was not the proximate cause. (Formerly 449.525)

468.305 General comprehensive plan.

Subject to policy direction by the commission, the department shall prepare and develop a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of new air pollution in any area of the state in which air pollution is found already existing or in danger of existing. The plan shall recognize varying requirements for different areas of the state. (Formerly 449.732)

468.310 Permits. By rule the commission may require permits for air contamination sources classified by type of air contaminants, by type of air contamination source or by area of the state. The permits shall be issued as provided in ORS 468.065. (Formerly 449.727)

468.315 Activities prohibited without permit; limit on activities with permit. (1) Without first obtaining a permit pursuant to ORS 468.065, no person shall:

(a) Discharge, emit or allow to be discharged or emitted any air contaminant for which a permit is required under ORS 468.310 into the outdoor atmosphere from any air contamination source.

(b) Construct, install, establish, develop, modify, enlarge or operate any air contamination source for which a permit is required under ORS 468.310.

(2) No person shall increase in volume or strength discharges or emissions from any air contamination source for which a permit is required under ORS 468.310 in excess of the permissive discharges or emission specified under an existing permit. (Formerly 449.731)

468.320 Classification of air contamination sources; registration and reporting of sources. (1) By rule the commis-

**ATTACHMENT E**

**MEMORANDUM**

TO: Environmental Quality Commission                      DATE: April 28, 1989

FROM: Linda K. Zucker, Hearings Officer

SUBJECT: Hearings Conducted April 17, 1989 and April 19, 1989 on Adoption of  
OAR 340-22-300, Reid Vapor Pressure Standard for Gasoline

Richard L. Holloway represented the Western States Petroleum Association (WSPA) Reid Vapor Task Force. WSPA supports the proposal to reduce Reid Vapor Pressure (RVP) to 10.5 psi during June 1 through September 15. WSPA considers the proposal to be cost effective. However, the group prefers a system of compliance testing at the refinery gate or terminal inlet to the agency plan which includes spot checking retail gasoline distribution facilities. WSPA also proposed a penalty schedule reflecting a facility's level in the distribution system: \$10,000 per day at the refinery, \$5,000 at the terminal, \$200 at the service station. WSPA urges consistency with federal requirements but asks the state to retain a lead role in administration. Written testimony available.

Leonard Shaw requested information about the proposed rule and testing methods. He agreed with regulating gasoline vapor pressure to control air pollution.

Joseph Weller, State Program Director of the American Lung Association of Oregon, anticipates that the proposed reduction in gasoline volatility would significantly reduce ozone levels at a reasonable cost. He also suggested considering a switch to cleaner fuels, stage II vapor recovery, reduction in NO<sub>x</sub>, and exclusion of ethanol. Written testimony available.

Douglas H. Breese, President of the Oregon Farm Bureau Federation asked the agency to follow EPA in providing an RVP waiver for ethanol blended fuel. He advised that ethanol fuels provide an important market for agricultural commodities. Ethanol-blended fuels extend gasoline supplies, reduce motor vehicle emissions of carbon monoxide (CO), and help reduce urban ozone formation despite their slightly higher RVP. Written testimony available.

George Abel, EPA Chief of Air Programs Branch, summarized EPA's volatility regulation and advised that he knew of no pending legal challenge to its implementation. Abel cited the Clean Air Act's authority to preempt any state from enforcing controls different from the federal regulation. Two issues, in his view, posed preemption concerns: (1) Control of alcohol fuels -- there is no exemption in the proposed Oregon rule, and (2) enforcement dates for 1989 -- Oregon's enforcement date is more stringent and would require a State Implementation Plan (SIP) revision. If the revision is obtained, state enforcement is expected to be more effective. Written testimony available.

U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 SIXTH AVENUE  
SEATTLE, WASHINGTON 98101



MAR 21 1989

REPLY TO  
ATTN OF: AT-082

Bill Jasper  
Air Quality Division  
Oregon Department of Environmental Quality  
811 SW Sixth  
Portland, OR 97204

Dear Mr. Jasper:

This letter summarizes the Environmental Protection Agency's (EPA) recently finalized rule on gasoline volatility and EPA's comments on OAR 340-22-300 (to establish a maximum RVP for automobile gasoline). First, I will provide a brief summary of EPA's regulation.

EPA's volatility regulation was published in the Federal Register on March 22, 1989, finalizing a regulation that was proposed in July of 1987. The action promulgates the first phase of a two phase reduction of summertime commercial gasoline volatility. Depending on the area of the country, gasoline Reid Vapor Pressure (RVP) must not exceed 10.5 psi, 9.5 psi, or 9.0 psi beginning in the summer of 1989. In Oregon, gasoline statewide must not exceed 10.5 psi. EPA expects to finalize a second phase of volatility reductions in the near future.

The date on which enforcement of RVP standards begins each year depends on the point in the distribution system. In 1989, enforcement for end users begins 100 days after the publication of these regulations (June 30, 1989). Enforcement at all other points in the system during 1989 begins 70 days after publication (June 1, 1989). After 1989, enforcement begins on June 1 for retail stations and other end-users of gasoline and on May 1 for all other points in the distribution system. Enforcement ends at all points in the distribution system including service stations on September 16.

EPA predicts that the rule will reduce volatile organic compound emissions by 5% of the total in most areas. These estimates do not include the benefits of reducing vehicle running loss emissions. If running losses are as significant as preliminary data suggest, then the volatility standards proposed here will result in a more substantial reduction in the inventory.

Refiners nationwide certainly have the ability to comply with this regulation. There is adequate lead time for refiners to meet this RVP specification within the timeframe outlined above. Also, EPA has developed an enforcement program to ensure compliance. The Federal Register Notice includes many of the details of this program. To the best of our knowledge, there are no pending legal challenges that could delay implementation.

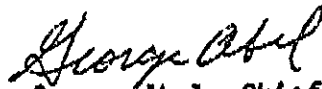
With regard to Oregon's RVP regulation, EPA's Region 10 office has been supportive and have recognized that controlling RVP would yield substantial environmental benefits for the citizens of Oregon. We commend your efforts to implement the state regulation. The one area where we have concern is the issue of preemption. Section 211(c)(4) of the Clean Air Act prohibits states from enacting controls on a fuel that are different from EPA controls, except in certain circumstances. Thus, the Phase I RVP control program will preempt any state from enforcing RVP controls different from EPA's unless such a program is approved in a State Implementation Plan. EPA's decision on whether to approve an ozone SIP amendment proposing a different RVP control program will hinge on whether the Agency makes a finding that such a program is necessary to achieve the National Ambient Air Quality Standard.

In reviewing OAR 340-22-300, the only preemptive elements that we noticed concerned 1) the control of alcohol fuels, and 2) enforcement dates for 1989. EPA is allowing a 1 psi RVP allowance for gasoline containing about 10 percent ethanol. We noticed no such exemption in the Oregon regulation. Also, enforcement dates for the Oregon rule (for 1989) are earlier and hence more strict than the federal regulation. We realize that you have worked with refiners who supply gasoline to Oregon and they are prepared to meet the dates of the Oregon regulation. Hopefully, you can continue to work with your refiners to obtain their compliance on the earlier schedule. However, without an approved SIP revision, enforcement of either of these two elements of the regulation would violate the Clean Air Act section cited above. The problem with the enforcement date may apply to future years as well depending on where the state plans to enforce the regulation. Your regulation does not specify where you plan to enforce and we therefore assume gasoline throughout the distribution system must meet the specification by May 15. If this is the case then this conflicts with the federal regulation as well since under the federal rule retail stations do not have to be in compliance until June 1. One final comment; my version of the regulation reads "May 15 through October 15". I believe this is a misprint and the regulation should read "through September 15".

In spite of the federal preemption, we believe Oregon may want to proceed with enacting this regulation since you will be able to provide better onsite enforcement than the federal government. We encourage you to make the appropriate changes to avoid conflict with the federal regulation. If you believe there is a need to pass a state regulation which is more stringent than the federal regulation, then we encourage you to work with us to develop and submit a SIP revision.

Thank you for providing us with the opportunity to comment on the Oregon regulation. If you have any questions please call Mike Lidgard of my staff at (206) 442-4233.

Sincerely,

  
George Abel, Chief  
Air Programs Branch

cc: Dan Johnson, WDOE



COMMENTS ON THE REDUCTION IN REID VAPOR PRESSURE  
DELIVERED TO  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
APRIL 17, 1989

My name is Richard L. Holloway, Manager of Refinery Technology at ARCO's Cherry Point Refinery, and I am representing the Western States Petroleum Association's (WSPA) RVP Task Force. WSPA is composed of some fifty oil and gas companies and they account for the bulk of the oil and gas exploration, producing, refining, transportation and marketing activities in the six states represented by the Association... California, Arizona, Nevada, Oregon, Washington and Hawaii.

A reduction in RVP (Reid Vapor Pressure) to 10.5 psi, during the June 1 through September 15 time period, is a cost effective method of controlling VOC (Volatile Organic Carbon) emissions and its impact on auto performance should be minimal. Our support of the DEQ (Department of Environmental Quality) proposal and our interest in reducing ozone concentrations this summer is illustrated by the voluntary action that has already been taken. All Washington State refineries (ARCO, British Petroleum, Shell, Texaco, and U.S. Oil), voluntarily began reducing RVP to 10.5 psi more than three weeks ago. This was done in advance of your pending regulation so that the benefits of reduced VOC emissions would be effective at the beginning of this ozone season.

However, there are several issues which we would like to address. The additional cost of reducing RVP to 10.5 is about one cent per gallon. This action would also require the processing of approximately four percent more crude oil. The refining industry is operating at near record capacity and the additional processing needed will occur during the high demand summer months, thereby cutting into crude supplies.

The issue of determining compliance with the RVP reduction is a complex matter. We believe the most cost-effective method is to have the industry report RVP measured at the refinery gate or the terminal inlet. Placing the compliance burden on the service station is both technically unacceptable and very costly for the industry and the regulatory agency. Let me give you an example. Sampling one of our five million gallon gasoline tanks is the same as sampling over 250 service stations... doesn't it make more sense to measure RVP on one tank, in one location, for compliance? For your information, ARCO alone has ten of these five million gallon



tanks at its Cherry Point refinery. Sampling all of these would take approximately four hours and would be equivalent to sampling every gasoline station in the State of Oregon.

It is recognized that DEQ needs to retain authority to monitor compliance at all levels of the distribution system. However, the penalties for non-compliance should be related to the potential effects that could be caused. We therefore recommend that the maximum penalties be set at \$10,000 per day for violations at the refinery, \$5,000 per day at the terminal, and \$200 per day at the service station.

We certainly appreciate the professional approach that the DEQ staff has taken in evaluating this issue. The several meetings between the DEQ and the industry have provided a better understanding of the issues and has led to a mutually acceptable solution. We do not fully understand the implications of the Federal preemption of RVP but we urge the State of Oregon to be consistent with the Federal program and to take appropriate steps to retain the lead role in administering the regulation. Our industry has historically supported the DEQ leadership over Federal mandates and we look forward to working with you to make this a successful program.

Attached is a copy of our Association's Position Paper on gasoline volatility for your review.

# # # # #



**POSITION PAPER**  
**GASOLINE VOLATILITY REDUCTION**

**BACKGROUND:**

The Portland, Oregon, metropolitan area has recorded ozone levels during the last two summers that, if continued, would place them in an air quality "non-attainment" status as defined by the U.S. Environmental Protection Agency (EPA). Seattle has recorded ozone values below the attainment threshold, but by a narrow margin.

Although the sources of ozone formation have not been fully identified, it is possible that volatile hydrocarbon from gasoline could contribute to the problem.

Vapor pressure is a measure of gasoline volatility. Currently, the petroleum industry has an 11.5 psi limit on gasoline sold during the summer months (ASTM Class C period) when ozone problems reach their peak.

**BASIS FOR POSITION STATEMENT:**

If Seattle does not stay within attainment limits and Portland doesn't achieve attainment for ozone, a construction ban could be imposed by the EPA. This would severely curtail economic development in these areas.

Gasoline volatility reduction could be implemented much faster than other control methods; a limit of 10.5 psi could be achieved by the summer of 1989.

There would be minimal or no impact on the performance or driveability of the gasoline if the limit was lowered to 10.5 psi.

**POSITION STATEMENT:**

WSPA supports all reasonable air quality goals and will therefore support a gasoline volatility limit of 10.5 psi vapor pressure for the summer months (ASTM Class C period) in Western Oregon and Western Washington.

We urge that the impact on the environment, consumer costs, and industry logistics be evaluated prior to any further reduction in the vapor pressure of gasolines.

We strongly advocate that compliance with this limit be monitored at the point of production, i.e., in refinery tankage. This manner of self reporting would be the most cost effective method for both governmental agencies and the industry.

Revised 3/30/89



**AMERICAN  
LUNG  
ASSOCIATION**  
*of Oregon*

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Portland, Oregon 97205  
(503) 224-5145  
1-800-545-5864 Oregon only

April 11, 1989

TO: DEPARTMENT OF ENVIRONMENTAL QUALITY  
FROM: JOSEPH WELLER  
STATE PROGRAM DIRECTOR  
RE: GASOLINE VOLATILITY

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
APR 12 1989  
**AIR QUALITY CONTROL**

It appears that the proposed reduction in gasoline volatility will cause a significant reduction in ozone levels at a cost to the driving public, which is reasonable.

Portland is currently not in compliance with federal ozone standards. That means that over 400,000 residents who are under 13, over 65, or have lung disease are breathing air which is unhealthy.

This problem is further compounded by the possibility that E.P.A. will lower the ozone standard, recognizing the scientifically proven point that even healthy adults will experience changes in lung function if exposed to ozone at currently allowable levels.

Ozone is a potent lung irritant. It damages the cells which line the respiratory tract.

Further steps to reduce ozone should be considered. Switching to cleaner fuels, stage II vapor recovery, reduction in  $\text{NO}_x$  are all going to have to be considered unless the Portland area can get significant reductions in ozone from this proposal.

It might be wise to consider exclusions for fuels (ethanol) with higher volatility, but total contributions to VOC emissions is lower on a per gallon basis. Other states (Texas, California) are currently promoting use of fuels other than gasoline. I hope that the final volatility rules can be written so as not to discourage such activity in Oregon.

/jms

KLH  
necessary action



1730 Commercial St. S.E. • P.O. Box 2209 • Salem, OR 97308 • (503) 581-1486

the voice of organized agriculture

April 20, 1989

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
APR 2 1989

Mr. Fred Hansen, Director  
Oregon Department of Environmental Quality  
811 SW Sixth Avenue  
Portland, OR 97204-1390

OFFICE OF THE DIRECTOR

Re: "Reid Vapor Pressure for Gasoline"

Dear Mr. Hansen:

The Oregon Farm Bureau Federation appreciates the opportunity to comment on Oregon's proposed air pollution control regulation, OAR 340-22-300, "Reid Vapor Pressure for Gasoline." In particular, we would like to comment on the adverse impact the proposal would have on the marketing of ethanol-blended fuels in Oregon.

As proposed, Oregon's air pollution control regulation would prohibit the marketing of ethanol-gasoline blends in Oregon. Without a Reid Vapor pressure (RVP) waiver for ethanol blended fuels, ethanol blends could not be sold in Oregon, since independent gasoline marketers would be unable to obtain gasoline that, when blended, would enable the resulting fuel to meet the proposed RVP standard. Requiring ethanol gasoline blends to meet the same vapor pressure standard as straight commercial gasoline would eliminate the use of ethanol and adversely affect the domestic ethanol fuel industry and the farmers and ranchers who now benefit from this important market for agricultural commodities.

Ethanol-blended fuels represent an important alternative to enable petroleum marketers to meet octane requirements following the reduction and ultimate elimination of lead in gasoline. Ethanol fuel can also play a positive role in extending gasoline supplies by 10 percent.

In addition, over the last several years, ethanol blended fuels have gained widespread acceptance as a high quality liquid fuel with major environmental benefits. EPA has determined that the use of ethanol blends will reduce motor vehicle emissions of carbon monoxide by approximately 25-30 percent. Ethanol is a much more environmentally benign substitute than other octane-enhancing alternatives for lead, such as benzene, toluene and xylene. Although ethanol blends have a slightly higher RVP than gasoline, recent studies conducted for the U.S. Environmental Protection Agency and the Renewable Rules Association indicate that since

Mr. Fred Hansen  
April 20, 1989  
Page 2

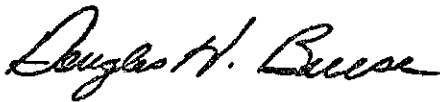
carbon monoxide is a precursor to urban ozone formation, reduced carbon monoxide emissions from the use of ethanol blends can help reduce urban ozone formation.

For these reasons, the Oregon Farm Bureau Federation supports adoption of the proposed regulation, as long as the regulation is amended to be consistent with EPA, which provides 10 percent ethanol blends a 1.0 psi RVP allowance. Such a tolerance could also be accomplished by either excluding mixtures of up to 10 percent denatured ethanol and 90 percent gasoline from the proposed requirements, or by requiring that only the gasoline component of the mixture meet Oregon's proposed RVP standard during the prescribed period.

In conclusion, the Oregon Farm Bureau Federation believes that providing ethanol blends a volatility exception is necessary to enable the marketing of ethanol in Oregon. Such action would allow the blending of ethanol with commercially available gasoline meeting State standards, and maintain the viability of Oregon farmers and Oregon agriculture -- a leading industry of our state.

We appreciate the opportunity to share our views.

Respectfully,



Douglas H. Breese  
President

**STAFF RESPONSE TO TESTIMONY FROM PUBLIC HEARINGS**

The Western States Petroleum Association (WSPA) earlier this year held a series of workshops of fuel volatility. The Department of Environmental Quality as well as the Washington Dept of Ecology, regional air pollution authorities, and EPA participated in these workshops. At their last workshop, WSPA offered some constructive suggestions regarding the wording on the rule. The suggestion was to incorporate the most current methods of ASTM test procedures into the rule language. This is being done. The comments from those meetings were considered complimentary to the testimony received at the public hearings.

The testimony supplied at the hearing went further, and proposed that the civil penalty structure be changed so that retail establishments were not held to as high a level of liability as the refiners or other wholesale outlets. Staff agrees that there is merit in discussing the concept that it may not be appropriate to hold retail establishments to the same level of liability as wholesale or manufacturing. However, EPA under its rules and under Section 211(d) of the Clean Air Act, provides civil penalty levels of up to \$10,000 per day per violation. Under EPA's RVP enforcement policy, there will be a sliding scale as was done in EPA's enforcement activity on lead in gasoline.

Staff has received correspondence from WSPA, attached, indicating their disagreement with the staff recommendation for a \$2,500 per day civil penalty maximum. Part of that disagreement arose from a discussion on the concept that each filling of a vehicle with fuel outside of the RVP standard, could be considered a separate violation. Since that concept was outside the scope of the original draft, that concept is not being pursued.

Both the Lung Association and the Oregon Farm Bureau noted that the proposed regulation more severely restricts the RVP of alcohol blended fuels, than the limits proposed under EPA's regulation of March 22, 1989. This was also noted in EPA's formal comments to the record. Staff has prepared a change in the proposed rule to provide a similar 1 psi allowance for alcohol blends.

EPA also noted the difference in proposed enforcement dates. The suggested enforcement dates have been changed to be consistent.

**SPECIFIC CHANGES IN THE DRAFT RULE**

The following specific changes in the draft rule proposal are noted. The effective dates are changed for May 15 through September 15. Paragraph (c) is added to provide for a 1 psi allowance for alcohol fuels.

In paragraph (2), two changes are of note. "Sold as a motor fuel" is added, as is the reference to ASTM D 4814. In addition, in all references to ASTM procedures, they are noted as "the most current method of". ASTM D 4814 is the newest description of specifications for motor fuels. The intent is to provide a more uniform and current definition of motor fuel.

In paragraph (4), the reference scope of the regulation is kept at the geographic area west of 122° Longitude, even though the EPA regulation has designated the entire state as a 10.5 psi region. It is the opinion of staff that it is not necessary at this time to include the eastern part of Oregon in this regulation.

Paragraph (6) has been modified to reference the test methods adopted under EPA's regulation of March 22, 1989.

Paragraph (7) has been modified to differentiate the penalty proposal between wholesale and retail. One item of note is that cardlocks are classified as wholesale outlets, consistent with their designation under Oregon's self-serve prohibitions.

#### ENFORCEMENT COSTS AND EQUIPMENT

The following costs are presented for consideration. WSPA sources indicate that the cost for an automated analyzer for measuring RVP samples is about \$20,000. The cost per sample for contract testing is estimated to be \$50-\$100 per sample. DEQ laboratory personnel indicate that capital costs for a different non-automated RVP machine of \$5,000, with an hourly cost of \$25 per sample. EPA is developing an in-field screening test, but this procedure is not anticipated to be available during 1989.

#### STATUTORY EVALUATION FACTORS AND REVIEW

ORS 468.295 requires that the Commission consider several factors when implementing controls under this statute. These factors are considered in all of the arguments for such controls. The economic impacts, implementation analysis if previous reports are based upon these general criteria. But for purposes of summary, these factors are stated again below.

Factors (a) through (f) relate to the summer ozone season and to motor vehicle fueling as a significant contributor to the summer ozone season violations. The violations of the ozone standard are health related. Sections (g) through (n) address some of the concerns listed in the fiscal and economic impact statements, and relate to most of the background discussions on why this type of control is a reasonable approach.

Factor (a) -- Quality or characteristic of air contaminant. The light ends of gasoline tend to evaporate, contributing to VOC emissions, which in turn react under sunshine into ozone.

Factor (b, c, and d) -- Physical conditions, wind direction, and temperatures. This would relate to the physical description of western Oregon in the summertime.

Factor (e) -- Chemical reactions. This relates to the reaction of VOC with sunlight in the air to form photochemical oxidants, ozone.

Factor (f) -- Character of development in area. The Portland metropolitan area, where compliance with ozone levels is of most concern, encompasses residential, industrial, and commercial areas.

Factor (g) -- Air cleaning devices. Changing the formulation of gasoline will result in reducing the amount of light ends available to evaporate.

Factor (h) -- Economic feasibility. As noted in economic statement and cost analysis, such controls have a cost-benefit of between \$350-\$500 per ton of VOC removed. Cost estimates indicate that this could contribute up to a .01¢ increase in the retail cost of gasoline.

Factor (i) -- Effect on health. Ozone does adversely affect human health.

Factor (j) -- Effect on efficiency of industrial operation. It is estimated that this will result in an approximate 1-4% increase in the amount of crude oil input to the refinery to make gasoline.

Factor (k) -- Extent of danger to property. Minimal.

Factor (l) -- Interference with enjoyment of life by action. Minimal.

Factor (m) -- Volume of air contaminants emitted. Reductions of 5,000 kilograms per day during the ozone season are estimated. There are over 44,000,000 million gallons of gasoline per month sold during the summer months in the Portland area.

Factor (n) -- Economic and Industrial development. Addressed by the economic impact statement. Economic sanctions could be imposed under Federal Clean Air Act for violations of the ambient health standard.

VIP\AR88





Western States Petroleum Association

Del J. Fogelquist  
Northwest Regional Manager

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
RECEIVED  
MAY 10 1989  
AIR QUALITY CONTROL

May 8, 1989

Mr. William P. Jasper, Jr.  
Engineering Coordinator  
Department of Environmental Quality  
811 SW Sixth Avenue  
Portland, Oregon 97204

Dear Bill:

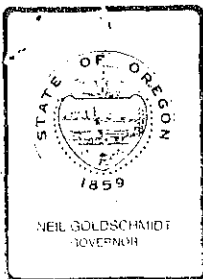
Regarding our phone conversation of May 3rd on RVP phasedown in the State of Oregon, I would like to clarify our industry position on two important issues. First, we believe the most accurate and reproducible RVP measurement can be obtained using the Southwest Research Institute (SWRI) instrument. This costs 20-25 thousand dollars.

The other issue is compliance violations and their associated fines. We believe the penalty for service station violations should be \$200 per day. Your verbal suggestion to me on May 3rd of a \$2,500 per vehicle penalty is totally unreasonable as it has never been discussed at our joint meetings, nor, to our knowledge, presented to the EQC or others during the public hearing process.

We have met with your Department in good faith in an attempt to arrive at a solution to the RVP question. Your new vehicle penalty ingredient totally changes the complexion of the draft regulation, therefore, we suggest that you reopen the draft rule for public comment in view of your phone call of May 3, 1989.

Sincerely,

Richard Holloway, Chairman  
RVP Task Force



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: March 3, 1989  
Agenda Item: F  
Division: AO  
Section: VIP

#### SUBJECT:

Standard for Motor Vehicle Fuels

#### PURPOSE:

To reduce the release of volatile organic compounds (VOC) from gasoline. By establishing a maximum limit of gasoline volatility for the summer months, this will reduce the VOC emitted and will help meet the ozone standard for 1989 and future years. The gasoline sold in western Oregon, will have a maximum Reid Vapor Pressure (RVP) of 10.5 psi from May 15 through September 15 of each year. The proposed rule also defines sampling methods and established civil penalties.

#### ACTION REQUESTED:

- Work Session Discussion
- General Program Background
- Program Strategy
- Proposed Policy
- Potential Rules
- Other: (specify)
  
- Authorize Rulemaking Hearing
  - Proposed Rules (Draft) Attachment A
  - Rulemaking Statements Attachment B
  - Fiscal and Economic Impact Statement Attachment B
  - Draft Public Notice Attachment C
  
- Adopt Rules
  - Proposed Rules (Final Recommendation) Attachment \_\_\_\_\_
  - Rulemaking Statements Attachment \_\_\_\_\_
  - Fiscal and Economic Impact Statement Attachment \_\_\_\_\_
  - Public Notice Attachment \_\_\_\_\_
  
- Issue Contested Case Decision/Order
  - Proposed Order Attachment \_\_\_\_\_
  
- Other: (specify)



Meeting Date: March 3, 1989  
Agenda Item: F  
Page 3

The fuel distribution systems in the Pacific Northwest are such that this will result in all fuels distributed west of the Cascade mountains in both states, will meet the volatility standard.

This proposal has primary application to the major petroleum refiners, suppliers, fuel distribution system operations, and retail outlets. Refiners will need to adjust the blend of their summertime gasoline. The proposal will affect gasoline distribution between May through September. Because of the change in the summertime gasoline formula, there is projected an approximate 1¢/gal increase in the retail price of gasoline during 1989/1990. The cost will go up because butane which is relatively inexpensive will need to be replaced by less volatile, more expensive hydrocarbons.

In the future, should methanol or ethanol become a major component in gasoline in this region, this regulation may need to be reviewed. That is because alcohol/gasoline fuels have an inherently higher vapor pressure when splash blended, (splash blending is the dumping of alcohol into the tanker truck prior to filling with gasoline; mixing takes place while tanker in transit). Currently in this region, there is not appreciable use of alcohol blended fuels.

#### PROGRAM CONSIDERATIONS:

This proposal will require audits of industry records. For 1989, audit will be done within existing personnel resources. Periodic inspection and testing authority is included in the draft rule if it is determined that audit is not an adequate enforcement mechanism. If periodic inspections by Department staff are necessary, there would need to be a staffing commitment.

#### ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

Compliance with the ozone standard is considered critical for Portland area. Gasoline volatility controls had been proposed by EPA to be effective this year. EPA has not, and does not appear to be implementing gasoline volatility controls. In order to ensure compliance with the ozone standard for 1989, the state cannot wait for EPA's action. Because of the EPA inaction, the state was left with three alternatives:

Meeting Date: March 3, 1989  
Agenda Item: F  
Page 4

- 1). Do nothing and wait for EPA to implement national volatility standards for gasoline.
- 2) Propose a similar strategy at the state level, and implement a gasoline volatility standard.
- 3) Propose other strategies that would be harsher and difficult to implement in a short term.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

As indicated at the workshop meeting of January 19, 1989, adopting a maximum RVP limit on gasoline should ensure compliance with the ozone standard. The recommendation is to authorize hearing for the purposes of gathering public comment on a proposed maximum RVP limit on gasoline.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

This strategy will help ensure attainment and maintenance of the ozone standard. This will promote the health and welfare of the general public. This type of environmental compliance posture will help with continued economic growth.

ISSUES FOR COMMISSION TO RESOLVE:

At the workshop meeting of January 19, 1989, the Commission directed the Department to proceed preparing rules for a gasoline volatility standard. The purpose for such action is to ensure compliance with the ozone standard for the Portland area.

INTENDED FOLLOWUP ACTIONS:

1. Conduct public hearings on April 17 and 19, 1989
2. Return to the Commission at the June 2, 1989, meeting for rules consideration

Meeting Date: March 3, 1989  
Agenda Item: F  
Page 5

Approved:

Section: Nick DiStefano  
Division: Nick DiStefano  
Director: \_\_\_\_\_

Report Prepared By: Bill Jasper

Phone: 229-5081

Date Prepared: February 15, 1989

BJ:k  
AK1398 (2/89)

Attachment A

STANDARD FOR AUTOMOTIVE GASOLINE

OAR 340-22-300 Reid Vapor Pressure for Gasoline

(1) (a) No person shall sell or supply as a fuel for motor vehicles, during the period of May 15 through October 15 of each year, a gasoline having a Reid Vapor Pressure greater than ten and a half pounds per square inch (10.5 psi).

(b) This section shall not apply to gasoline delivered to retail outlets more than 14 days immediately preceding the periods established.

(2) (a) As used in this regulation, "gasoline" means any petroleum distillate having a Reid Vapor Pressure of more than four pounds as defined by ASTM Method D 323, and meeting the other general specifications defined by ASTM D 439.

(b) ASTM refers to the standards test methods and procedures published by the American Society for Testing and Materials.

(3) The Reid Vapor Pressure specified in paragraph (1) of this section shall be measured according to the procedures established in ASTM D 323.

(4) The geographic coverage of this regulation shall be consistent with boundary specified in ASTM D 439, specifically all of Oregon, west of 122° Longitude.

(5) Samples submitted to the Department by refiners or distributors of gasoline shall be sampled and tested pursuant to methods established by ASTM D 323.

(6) The Department reserves the right to audit records and to sample gasoline for the purposes of compliance. Samples of petroleum shall be sampled pursuant and tested by methods established by ASTM D 323 or by methods established under the California Air Resources rule, Title 13 §2251.

(7) Pursuant to ORS 468.130, civil penalties of not more than \$10,000 per day may be assessed for violation of paragraph 1 of this section.

(8) The effective date of this section is June 15, 1989.

Attachment B

Statement of Need and Fiscal and Economic Impact Required for Rulemaking

Statement of Need:

The Portland metropolitan area remains in non-attainment for ozone, as designated by EPA. Because of this non-attainment status, additional controls on ozone precursor VOC emissions are proposed. The high volatility of gasoline in the summer months increases the emissions from gasoline sales from vehicular and fuel evaporative losses. Because of the environmental impact on the health of area residents and the potential economic impacts associated with non-attainment status, there is a need to insure compliance with the ozone standard during the 1989 ozone season and beyond.

Statutory Authority:

This rule is being proposed under the Environmental Quality Commission's authority, pursuant to ORS 468.295.

Documents Relied Upon:

EPA Notice of Proposed Rulemaking on the subject of Fuel Volatility, August 19, 1987. EQC Agenda Item 1, January 19, 1989. ASTM D 439, Standard Specification for Automotive Gasoline. California Air Resources Board administrative rules, Title 13, §2251.

Land Use Consistency:

The proposed rule appears to affect land use and to be consistent with Statewide Planning Goals.

With regard to Goal 6, Air, Water, and Land Resources Quality, this rule is designed to improve and maintain air quality and is consistent with that goal.

Fiscal and Economic Impact Statement:

Who is directly impacted, and where is the impact? The petroleum refiners who manufacturer and supply the fuel are directly affected. The petroleum industry, based primarily in Puget Sound, will need to reformulate gasoline composition in order to have a product which meets the proposed standard. It will do this by substituting more expensive components for cheaper, more volatile butane.

Who is indirectly impacted, and where is the impact? The general public will benefit from this proposal because of the compliance with national air quality ozone standards.

The motoring public will be impacted because of the price increase associated with the change in gasoline formula. The increase is estimated to be about 1¢ per gallon at the pump. Some industry sources indicate that this cost estimate may be low. The cost increase is due to pass through costs from manufacture.



Some of the cost increase should be recouped from potential increased fuel economy. However, such fuel economy gains, on the order of 1%, would not normally be noticed by the average motorist.

Small businesses will benefit from attainment of the air quality standards. Attainment means that economic sanctions would not be applied in this region, and this should provide a favorable climate for business expansion. Small businesses will experience increased costs due to increased fuel cost.

Large business will benefit from attainment in the same manner as small business. Cost increases will be similar.

Local Government will benefit from attainment in the same manner as business. Cost increases will be similar.

State Governments will benefit from attainment. Redesignation to compliance would free state government from the onerous requirements EPA has proposed for areas that continue to violate the ozone standard beyond 1987. The implementation of this limit on fuel volatility will provide a significant decrease in pollutant emissions; however, the effects of meteorology play a very large role in ozone formation and, therefore, attainment cannot be guaranteed. Because of petroleum marketing areas, this rule is estimated to impact all of western Oregon and Washington. As such, the State of Washington will receive air pollution benefit from reduced VOC emissions earlier than if they were to wait for EPA action. This will benefit air quality in the Seattle area.

Oregon Department of Environmental Quality

# A CHANCE TO COMMENT ON...

NOTICE OF PUBLIC HEARING OAR 340-22-300

Hearing Date: April 17 and 19, 1989  
Comments Due: April 21, 1989

**WHO IS  
AFFECTED:**

Refiners and distributors of gasoline are directly affected, and will need to modify the blends of gasoline sold during the summer months. Motorists and other users of gasoline will be indirectly affected by this proposal, because the refiner's costs will be passed through to the ultimate user. The price of gas could increase 1¢ per gallon.

**WHAT IS  
PROPOSED:**

The Department of Environmental Quality is proposing to adopt OAR 340-22-300 to establish a standard for automotive gasoline. The proposal would establish a maximum Reid Vapor Pressure for automotive gasoline of 10.5 psi during the period of May 15 through September 15. Because of the way gasoline is marketed, this would apply to all Oregon, west of 122° longitude (west of the Cascades). The effective date for 1989 would be June 15, 1989. Sampling procedures and civil penalty authority is included.

**WHAT ARE THE  
HIGHLIGHTS:**

During the past 15 years, the volatility of gasoline, as measured by a test called Reid Vapor Pressure, has been increasing. Gasoline vapors from marketing and on vehicle evaporative losses are significant contributors to concentrations of ground level ozone in the Portland area. Reducing the volatility of gasoline to previously manufactured levels can be of significant benefit in state efforts to meet the federal ozone health standard.

A maximum Reid Vapor Pressure of 10.5 psi would be established. Refiners and distributors of automotive gasoline would need to supply and sell the reduced volatility gasoline during the summer months. This is estimated to provide a 5000 kg/day VOC emission reduction, and help insure compliance with the ozone standard.

Why would it cost more? The refinery cost increases, due to gasoline reformulation, would be expected to be passed through to gasoline users. Studies at the national level have indicated that this could result in about a 1¢ per gallon price increase. Some petroleum industry sources have indicated that the cost may be higher.



811 S.W. 6th Avenue  
Portland, OR 97204

11/1/86

**FOR FURTHER INFORMATION:**

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

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G-9

HOW TO  
COMMENT:

Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland 811 S.W. Sixth Avenue or the regional office nearest you. For further information contact Bill Jasper at (503) 229-5081.

Public hearings will be held before a hearings officer at:

10:00 a.m.	7:00 p.m.
April 17, 1989	April 19, 1989
Portland Building Auditorium	Portland Building Auditorium
1120 SW Fifth	1120 SW Fifth
Portland, Oregon	Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ, but must be received by no later than April 21, 1989.

WHAT IS THE  
NEXT STEP:

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in June 2, 1989, as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

AK1354 (2/89)

468.295 Air purity standards; air quality standards. (1) By rule the commission may establish areas of the state and prescribe the degree of air pollution or air contamination that may be permitted therein, as air purity standards for such areas.

(2) In determining air purity standards, the commission shall consider the following factors:

(a) The quality or characteristics of air contaminants or the duration of their presence in the atmosphere which may cause air pollution in the particular area of the state;

(b) Existing physical conditions and topography;

(c) Prevailing wind directions and velocities;

(d) Temperatures and temperature inversion periods, humidity, and other atmospheric conditions;

(e) Possible chemical reactions between air contaminants or between such air contaminants and air gases, moisture or sunlight;

(f) The predominant character of development of the area of the state, such as residential, highly developed industrial area, commercial or other characteristics;

(g) Availability of air-cleaning devices;

(h) Economic feasibility of air-cleaning devices;

(i) Effect on normal human health of particular air contaminants;

(j) Effect on efficiency of industrial operation resulting from use of air-cleaning devices;

(k) Extent of danger to property in the area reasonably to be expected from any particular air contaminants;

(l) Interference with reasonable enjoyment of life by persons in the area which can reasonably be expected to be affected by the air contaminants;

(m) The volume of air contaminants emitted from a particular class of air contamination source;

(n) The economic and industrial development of the state and continuance of public enjoyment of the state's natural resources; and

(o) Other factors which the commission may find applicable.

(3) The commission may establish air quality standards including emission standards for the entire state or an area of the state. The standards shall set forth the maximum amount of air pollution permissible in various categories of air con-

taminants and may differentiate between different areas of the state, different air contaminants and different air contamination sources or classes thereof. (Formerly 449.735)

468.300 When liability for violation not applicable. The several liabilities which may be imposed pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.235, 454.405, 454.425, 454.505 to 454.535, 454.605 to 454.745 and this chapter upon persons violating the provisions of any rule, standard or order of the commission pertaining to air pollution shall not be so construed as to include any violation which was caused by an act of God, war, strife, riot or other condition as to which any negligence or willful misconduct on the part of such person was not the proximate cause. (Formerly 449.325)

468.305 General comprehensive plan.

Subject to policy direction by the commission, the department shall prepare and develop a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of new air pollution in any area of the state in which air pollution is found already existing or in danger of existing. The plan shall recognize varying requirements for different areas of the state. (Formerly 449.732)

468.310 Permits. By rule the commission may require permits for air contamination sources classified by type of air contaminants, by type of air contamination source or by area of the state. The permits shall be issued as provided in ORS 468.065. (Formerly 449.737)

468.315 Activities prohibited without permit; limit on activities with permit. (1) Without first obtaining a permit pursuant to ORS 468.065, no person shall:

(a) Discharge, emit or allow to be discharged or emitted any air contaminant for which a permit is required under ORS 468.310 into the outdoor atmosphere from any air contamination source.

(b) Construct, install, establish, develop, modify, enlarge or operate any air contamination source for which a permit is required under ORS 468.310.

(2) No person shall increase in volume or strength discharges or emissions from any air contamination source for which a permit is required under ORS 468.310 in excess of the permissive discharges or emission specified under an existing permit. (Formerly 449.731)

468.320 Classification of air contamination sources; registration and reporting of sources. (1) By rule the commis-

Attachment E

MEMORANDUM

To: Environmental Quality Commission

From: Vehicle Inspection Staff

Subject: Agenda Item \_\_, March 3, 1989, EQC Meeting

Discussion on Volatility Standards for Automotive Gasoline

Background

At the Environmental Quality Commission workshop meeting of January 19, 1989, the Commission reviewed information on the subject of volatile organic compounds (VOC) - specifically gasoline volatility and how it relates to ambient ozone levels in the Portland area. The Commission indicated that the Department should proceed to develop a hearings request and rules package on a gasoline volatility cap. The rule would establish a maximum limit on gasoline volatility, a measure of how easy gasoline evaporates, during the summer months.

The report presented at the workshop is included as Attachment G of the main report. 1989 is a critical year for the Portland metropolitan area to demonstrate compliance with the national ozone standard. Under terms of the federal Clean Air Act, economic sanctions can be applied to areas that fail to achieve the ambient air health standards.

Assuring compliance with ozone levels in the Portland area is no easy matter. As indicated in Attachment F, VOC emissions from gasoline marketing and onboard vehicle losses are a sizable part of the state's emission inventory. There are only three control techniques that are available to the state for controlling these type of emissions: Stage I, Stage II, and gasoline volatility controls. Stage I, the control of gasoline evaporative emissions during the wholesale refueling (between distributor, tanker truck, and service station) is in place. Stage II, the control of gasoline emissions during the fueling of vehicles at the service station, is not currently used in Oregon. The remaining control strategy available at the state level, volatility limits on gasoline, is what is being discussed.

In 1987, United States Environmental Protection Agency (EPA), issued a notice of proposed rule making (NPRM) for gasoline volatility. It also included standards that would have required the auto manufactures to improve onboard gasoline vapor capture. EPA has not finalized its gasoline volatility standard.

### Backup Plan to a National Gasoline Volatility Standard

EPA's NPRM proposed a two step strategy to lower the allowable Reid Vapor Pressure limit for motor gasoline from its current levels. As it would affect western Oregon, gasoline volatility would have initially been dropped to a 10.5 psi RVP (RVP - Reid Vapor Pressure is a specific test method that measures gasoline volatility), and then about two to three years later, lowered to 9.0 psi RVP. Because of the lack of federal action, a backup plan was presented to the Commission at its workshop of January 19, 1989. The regulation proposed would restrict the allowable RVP of gasoline sold in the summer months, to a 10.5 psi.

Oregon's dilemma with the suspension of EPA's NPRM proposal is shared by many states. As a result, proposals similar to EPA's NPRM are being considered and adopted elsewhere. For example, a consortium of northeast states have adopted a 9.0 psi RVP standard effective this summer.

### Gasoline Sold in Oregon

Summer gasoline sold in the Portland area during the ozone season, averages about 11.5 psi RVP. A reduction to 10.5 psi RVP represents a VOC reduction of approximately 5,000 kilograms per average summer workday, or a 4% reduction in overall VOC emissions. That means from May 15 through September 15 a 600 ton reduction of VOC, based upon last years gasoline sales, could be achieved. Approximately 44,000,000 gallons per month of gasoline are sold within the three Oregon counties of the Portland metro area during the ozone season. Statewide, about 120,000,000 gallons per month of gasoline are sold.

### Effect of Implementing a Gasoline Volatility Standard

What can be done to reduce gasoline volatility, how can it be done, and what is the cost? The volatility of gasoline is established at the refinery during the blending process. Volatility is varied for seasonal climatic changes to meet the differing needs. ASTM D 439-86, copy attached, is an industry standard specification for automotive gasoline. It shows many of the different tests that define the different gasoline properties. The volatility of gasoline can be reduced by changing the formula of the different hydrocarbon compounds. Over the past years, the butane content of gasoline has increased. This is due, in part, to the changing nature of the chemicals market, differences in crude oil supplies, and the availability of different hydrocarbon compounds resulting from increased reforming to obtain better antiknock compounds to make up for the reduction of lead in gasoline. Butane also has good antiknock properties, and its use helps boost the overall antiknock index rating. The antiknock index is a rating method to determine the fuel's ability to resist engine knock or ping. This contributes to a product that meets motorists' driveability needs.

Butane, however, is a very light hydrocarbon, and tends to evaporate easily. On warm summer days, this property of butane contributes to increased evaporative losses from motor vehicles gasoline tanks, both when in storage and when the vehicles are operating. These vapors are also emitted into the atmosphere when the vehicles are fueled.

Simplistically, gasoline volatility can be reduced by removing or decreasing the butane content. Based upon technical papers and industry sources; the national costs estimates indicate about a \$0.006-\$0.008 per gallon increase in the price of gasoline at the pump. Thus, the total pass through cost to the customer is about one cent per gallon. That cost represents an overall cost, on a statewide basis, of \$2-3 million per ozone season. Some industry sources indicate that refining costs in the Pacific Northwest may be higher, and the actual cost may be double this estimate, for an overall cost range of between 1-2¢ per gallon. The Fiscal and Economic Impacts Statement is included as Attachment B of the main report.

#### Effect of Marketing and Distribution of Gasoline

If a gasoline volatility standard is implemented, the action may affect the marketing of gasoline throughout the Pacific Northwest; not just in western Oregon. Because of the way gasoline is distributed in this region, EQC action mandating a reduced RVP limit may effectively require a lower volatility gasoline throughout both western Oregon and Washington. It would be anticipated that cost increases would be seen throughout the region.

#### Areas of Controversy

The biggest areas of controversy surrounding this proposal is timing, and price. To most motorists the timing is of no consequence, since it is assumed that gasoline will continue to be a readily available product. However, to the petroleum refiners, the timing is crucial. Adequate lead time is necessary to provide for the orderly transition to a new summer specification gasoline. If the price exceeds the staff estimates by too high a figure, than motorists may object to the cost at the pump.

From a technical perspective lowering fuel volatility of gasoline can effect fuel antiknock index and overall driveability. The gasoline blend is influenced by the source of the crude oil and other market demands for various hydrocarbon compounds. As indicated earlier, the increase in volatility of gasoline is primarily attributed to the increased butane content. Butane is inexpensive and it also has good antiknock properties. When butane is removed, the antiknock index will need to be balanced either by increasing the aromatic or olefin content, or by the addition of octane enhancers, such as methyl tertiary butyl ether (MTBE).

From an environmental prospective, a significant increase in the use of aromatic or olefin content poses other problems (this may well be offset by the reduced volatility of the final product). The current market conditions

for aromatics is also "tight", and it is the gasoline reformulation that will cause an increase in price. At the same time this proposal will be under study, the Northeast states are implementing RVP control. While the level of RVP control proposed in this proposal is not as severe (10.5 psi vs. 9.0 psi), the way gasoline will change is similar on both coasts. Reducing RVP will leave a drop in available antiknock capability. This antiknock capability will be augmented either by the increased use of aromatic or the addition of oxygenates, such as MTBE.

Thus the costs to replace the antiknock capability of gasoline, may be underestimated, and exceed 1¢/gal. Staff has been working to maintain open communications with the industry. It is believed that the petroleum industry will soon be able to provide a better estimate of their ability and the actual cost impact of this proposal.

#### Volatility Rule and Enforcement

Presented in Attachment A of the main report, is a draft rule for Commission consideration. This rule would establish a maximum limit on fuel volatility for gasoline sold, a sampling and reporting procedure, and a schedule of penalties. The rule is patterned after California's gasoline volatility regulations.

The following enforcement scheme is proposed. The manufacturer or refiner shall sample and report to the Department on a monthly basis the average Reid vapor pressure that will be sold and distributed in western Oregon. The test method will be ASTM Method D 323.

Monthly reports of vapor pressure findings would be mailed to the Department in a timely manner to insure discrepancies are quickly resolved. If the refiner records show excessive vapor pressure, penalties will be imposed consistent with the Department's enforcement authority.

The Department would reserves the right to audit the refinery distribution terminal and related distributors to insure the accuracy of the reports. This authority would include the right to spot check retail gasoline distribution. Sampling will be performed according to the procedures of the State of California Air Resources Board Title 13 §2251 and standard ASTM Methods.

Implementation of the above sampling and reporting requirements will be June 15, 1989.



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Hearings

Two hearings have been tentatively scheduled. Both hearings would be in the Portland area, with one in the morning and the other in the evening hours. Because of the potentially controversial nature of the proposal, both hearings need to be conducted before the Commission's Hearings Officer, rather than the technical staff.

AMERICAN SOCIETY FOR TESTING AND MATERIALS  
1918 Race St., Philadelphia, Pa. 19103

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If not listed in the current combined index, will appear in the next edition

## Standard Specification for AUTOMOTIVE GASOLINE<sup>1</sup>

This standard is issued under the fixed designation D 439; the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval. A superscript epsilon ( $\epsilon$ ) indicates an editorial change since the last revision or reapproval.

*This specification has been approved for use by agencies of the Department of Defense and for listing in the DoD Index of Specifications and Standards*

### 1. Scope

1.1 This specification guides in establishing the requirements of gasoline for ground vehicles equipped with spark-ignition engines.

1.2 This specification describes various characteristics of gasolines for use over a wide range of operating conditions. It neither necessarily includes all types of gasolines that are satisfactory for automotive vehicles, nor necessarily excludes gasolines that may perform unsatisfactorily under certain operating conditions or in certain equipment.

1.3 Gasoline is not the only fuel used in ground vehicles equipped with spark-ignition engines. Blends of gasoline with oxygenates such as alcohols and ethers are common in the marketplace. However, some of the test methods referred to in this specification are not applicable to such blends. A specification that encompasses all fuels for automotive spark-ignition engines is under development. It appears as D-2 Proposal P 176, Proposed Specification for Automotive Spark-Ignition Engine Fuel in the "gray" pages of this volume. Refer to D-2 Proposal P 176 for information and for requirements and test methods applicable to gasoline-oxygenate blends.

1.4 The values stated in SI units are the standard. The values in parentheses are for information only.

### 2. Referenced Documents

#### 2.1 ASTM Standards:

- D 86 Method for Distillation of Petroleum Products<sup>2</sup>
- D 130 Method for Detection of Copper Corrosion from Petroleum Products by the Copper Strip Tarnish Test<sup>2</sup>
- D 323 Test Method for Vapor Pressure of Petroleum Products (Reid Method)<sup>2</sup>

- D 381 Test Method for Existent Gum in Fuels by Jet Evaporation<sup>2</sup>
- D 525 Test Method for Oxidation Stability of Gasoline (Induction Period Method)<sup>2</sup>
- D 1266 Test Method for Sulfur in Petroleum Products (Lamp Method)<sup>2</sup>
- D 2533 Test Method for Vapor-Liquid Ratio of Gasoline<sup>3</sup>
- D 2547 Test Method for Lead in Gasoline, Volumetric Chromate Method<sup>3</sup>
- D 2551 Test Method for Vapor Pressure of Petroleum Products (Micromethod)<sup>3</sup>
- D 2599 Test Method for Lead in Gasoline by X-Ray Spectrometry<sup>3</sup>
- D 2622 Test Method for Sulfur in Petroleum Products (X-Ray Spectrographic Method)<sup>3</sup>
- D 2699 Test Method for Knock Characteristics of Motor Fuels by the Research Method<sup>4</sup>
- D 2700 Test Method for Knock Characteristics of Motor and Aviation Fuels by the Motor Method<sup>4</sup>
- D 2885 Test Method for Research and Motor Method Octane Ratings Using On-Line Analyzers<sup>4</sup>
- D 3116 Test Method for Trace Amounts of Lead in Gasoline<sup>5</sup>
- D 3120 Test Method for Trace Quantities of Sulfur in Light Liquid Petroleum Hydrocarbons by Oxidative Microcoulometry<sup>3</sup>
- D 3229 Test Method for Low Levels of Lead

<sup>1</sup> This specification is under the jurisdiction of ASTM Committee D-2 on Petroleum Products and Lubricants and is the direct responsibility of Subcommittee D02.A on Gasoline.

Current edition approved Oct. 31, 1986. Published December 1986. Originally published as D 439 - 37 T. Last previous edition D 439 - 85a.

<sup>2</sup> Annual Book of ASTM Standards, Vol 05.01

<sup>3</sup> Annual Book of ASTM Standards, Vol 05.02.

<sup>4</sup> Annual Book of ASTM Standards, Vol 05.04.

<sup>5</sup> Annual Book of ASTM Standards, Vol 05.03.

- in Gasoline by X-Ray Spectrometry<sup>3</sup>  
 D3231 Test Method for Phosphorus in Gasoline<sup>3</sup>  
 D3237 Test Method for Lead in Gasoline by Atomic Absorption Spectrometry<sup>3</sup>  
 D3341 Test Method for Lead in Gasoline—iodine Monochloride Method<sup>3</sup>

### 3. Definitions

3.1 *gasoline*—a volatile mixture of liquid hydrocarbons, generally containing small amounts of additives, suitable for use as a fuel in spark-ignition internal combustion engines.

3.2 *oxygenate, n*—an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which may be used as a fuel or fuel supplement.

3.3 *gasoline-oxygenate blend*—a blend consisting primarily of gasoline and a substantial amount of one or more oxygenates.

NOTE 1—Because a standard test method does not exist that can quantitatively determine small amounts of oxygenates or combined oxygen in fuel, it is not possible at this time to set a maximum limit for oxygenate or oxygen content for gasoline. The intent of the above definitions is to indicate that a spark-ignition engine fuel is a gasoline-oxygenate blend when sufficient oxygenate is present to interfere with the determination of properties using current standard test methods. It is not the intent of the definitions to classify as a gasoline-oxygenate blend a gasoline containing: (1) alcohol used as a diluent for detergent or corrosion inhibitor additives and (2) small amounts of alcohols or glycols used as anti-icing additives. When new test methods and technical data to support a limit are available, an oxygenate or oxygen content maximum limit for gasoline will be considered.

### 4. General

4.1 This specification provides for an automatic variation of the volatility and antiknock index of gasoline in accordance with seasonal climatic changes at the locality where the gasoline is used.

4.2 This specification represents a description of gasolines as of the date of publication. The specification is under continuous review, which may result in revisions based on changes in gasoline or automotive requirements, or both. All users of this specification, therefore, should refer to the latest edition.

NOTE 2—If there is any doubt as to the latest edition of Specification D 439, contact ASTM Headquarters.

### 5. Performance Requirements

5.1 Volatility is varied for seasonal climatic

changes by providing for five volatility classes of gasoline, which conform to the requirements prescribed in Table 1.

5.1.1 The seasonal and geographical distribution of the five classes is shown in Table 2.

5.2 Antiknock index levels, defined as the average of the Research octane number (RON) and Motor octane number (MON), and their application are set forth in Table 3.

5.2.1 Vehicle octane requirements generally vary with atmospheric temperature and humidity. Recommended maximum adjustments in antiknock index for seasonal climatic changes are provided in Fig. 1.

5.2.2 Vehicle octane requirements generally decrease with increasing altitude. The maximum antiknock index adjustments, established to protect cars driven from a high to a lower altitude area while using fuel obtained in the high altitude area, are provided in Fig. 2.

5.3 Additional requirements are listed in Table 1.

### 6. Workmanship

6.1 The finished gasoline must be visually free of undissolved water, sediment, and suspended matter; it must be clear and bright at the ambient temperature or 21°C (70°F), whichever is higher.

### 7. Ordering Information

7.1 The purchasing agency shall:

7.1.1 State the antiknock index as agreed upon with the seller,

7.1.2 Indicate the season and locality in which the gasoline will be used,

7.1.3 Indicate the lead level required (Table 1).

### 8. Test Methods

8.1 The requirements enumerated in this specification are determined in accordance with the following methods:

8.1.1 *Distillation*—Method D 86.

8.1.2 *Vapor-Liquid Ratio*—Test Method D 2533.

8.1.3 *Vapor Pressure*—Test Method D 323 or Test Method D 2551.

8.1.4 *Research Method Octane Number*—Test Method D 2699 or Test Method D 2885.

8.1.5 *Motor Method Octane Number*—Test Method D 2700 or Test Method D 2885.

8.1.6 *Corrosion*—Test Method D 130, three

D  
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hours at 50°C (122°F).

- 8.1.7 *Existent Gum*—Test Method D 381.
- 8.1.8 *Sulfur*—Test Method D 1266, Test Method D 2622, or Test Method D 3120. With Test Method D 3120, fuels with sulfur content greater than 100 ppm (0.0100 mass %) must be diluted with *isooctane*. The dilution of the sample may result in a loss of precision. Test Method D 3120 cannot be used when the lead concentration is greater than 0.4 g/L (1.4 g/gal).
- 8.1.9 *Lead*—Test Method D 2547, Test Method D 2599, or Test Method D 3341. For lead levels below 0.03 g/L (0.1 g/gal) use Test Method D 3116, Test Method D 3229 or Test Method D 3237.
- 8.1.10 *Oxidation Stability*—Test Method D 525.

9. Precision and Bias

- 9.1 The precision of each required test method is included in the standard applicable to each method.
- 9.2 *Antiknock Index*:
  - 9.2.1 The following statements apply to antiknock index, which is a composite quantity not addressed in any other standard.
  - 9.2.2 The precision of the antiknock index (RON + MON)/2 is a function of the individual precisions of Research (D 2699) and Motor (D 2700) octane numbers. The repeatability and reproducibility variances for these test methods must be summed in proportion to their individual contributions to the antiknock index.
  - 9.2.3 *Repeatability*—The difference between two sets of antiknock index determinations,

where two test results by each octane number method were obtained by one operator, with the same apparatus under constant operating conditions on identical test material would, in the long run, and in the normal and correct operation of the test methods, exceed the values in the following table in only one case in twenty.

9.2.4 *Reproducibility*—The difference between two independent sets of antiknock index determinations, obtained by different operators working in different laboratories on identical test material would, in the long run, and in the normal and correct operation of the test methods, exceed the values in the following table in only one case in twenty.

Antiknock Index	Repeatability Limits, Antiknock Index Units	Reproducibility Limits, Antiknock Index Units
83	0.2	0.7
85	0.2	0.7
87	0.2	0.7
89	0.2	0.6
91	0.2	0.6
93	0.2	0.6
95	—	0.6
97	—	0.7

NOTE 2—These precision limits were calculated from Research and Motor octane number results obtained by member laboratories of the ASTM National Exchange Group (NEG) participating in a cooperative testing program. The data obtained during the period 1980 through 1982 have been analyzed in accordance with RR:D02-1007, "Manual on Determining Precision Data for ASTM Methods on Petroleum Products and Lubricants," Spring, 1973.

9.2.5 *Bias*—There being no criteria for measuring bias in these test-product combinations, no statement of bias can be made.

TABLE 1 - Detailed Requirements for Gasoline

Volatility Class	Distillation Temperatures, °C (°F), at Percent Evaporated <sup>a</sup>					Distillation Residue, Vol %, max	Vapor/Liquid Ratio (V/L) <sup>b</sup>	
	10 Vol %, max	50 Vol %		90 Vol %, max	End Point, max		Test Temperature, °C (°F)	V/L max
		min	max					
A	70 (158)	77 (170)	121 (250)	190 (374)	225 (437)	2	60 (140)	20
B	65 (149)	77 (170)	118 (245)	190 (374)	225 (437)	2	56 (133)	20
C	60 (140)	77 (170)	116 (240)	185 (365)	225 (437)	2	51 (124)	20
D	55 (131)	77 (170)	113 (235)	185 (365)	225 (437)	2	47 (116)	20
E	50 (122)	77 (170)	110 (230)	185 (365)	225 (437)	2	41 (105)	20

Volatility Class	Reid Vapor Pressure, max, kPa (psi)	Lead Content, max, g/L (g/gal)		Copper Strip Corrosion, max	Existent Gum, max, mg/100 mi.	Sulfur, max, Mass %		Oxidation Stability, Minimum, Minutes	Anti-knock Index
		Unleaded <sup>d</sup>	Leaded <sup>c</sup>			Unleaded	Leaded		
A	62 (9.0)	0.013 (0.05)	1.1 (4.2)	No. 1	5	0.10	0.15	240	0
B	69 (10.0)	0.013 (0.05)	1.1 (4.2)	No. 1	5	0.10	0.15	240	0
C	79 (11.5)	0.013 (0.05)	1.1 (4.2)	No. 1	5	0.10	0.15	240	0
D	93 (13.5)	0.013 (0.05)	1.1 (4.2)	No. 1	5	0.10	0.15	240	0
E	103 (15.0)	0.013 (0.05)	1.1 (4.2)	No. 1	5	0.10	0.15	240	0

<sup>a</sup> At 101.3 kPa pressure (760 mm Hg).

<sup>b</sup> The intentional addition of lead or phosphorus compounds is not permitted. U.S. Environmental Protection Agency (EPA) regulations limit their maximum concentrations to 0.05 g of lead per gallon and 0.005 g of phosphorus per gallon (by Test Method D 3231), respectively.

<sup>c</sup> EPA regulations limit the lead concentration in leaded gasoline to no more than 0.1 g/gal (0.026 g/L), averaged for quarterly production of leaded gasoline.

<sup>d</sup> See Table 3.

TABLE 2 Schedule of Seasonal and Geographical Volatility Classes

This schedule, subject to agreement between purchaser and seller, denotes the volatility properties of the gasoline at the time and place of shipment. Shipments intended for future use may anticipate this schedule. Where alternative classes are permitted, either class is acceptable; the option shall be exercised by the seller.

State	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Alabama	D	D	D/C	C	C	C	C/B	B	B/C	C	C/D	D
Alaska	E	E	E	E	E/D	D	D	D	D/E	E	E	E
Arizona	D	D/C	C/B	B	B/A	A	A	A	A	A/B	B/C	C/D
Arkansas	E/D	D	D/C	C	C	C/B	B	B	B/C	C/D	D	D/E
*California												
North Coast	E/D	D	D	D/C	C	C/B	B	B	B	B/C	C/D	D/E
South Coast	D	D	D/C	C	C/B	B	B	B	B	B/C	C/D	D
Southeast	D	D/C	C/B	B	B/A	A	A	A	A	A/B	B/C	C/D
Interior	E/D	D	D	D/C	C/B	B	B	B	B	B/C	C/D	D/E
Colorado	E	E/D	D/C	C	C/B	B	B/A	A/B	B	B/C	C/D	D/E
Connecticut	E	E	E/D	D	D/C	C	C	C	C/D	D	D/E	E
Delaware	E	E	E/D	D	D/C	C	C	C	C	C/D	D/E	E
District of Columbia	E	E/D	D	D/C	C	C	C	C	C	C/D	D/E	E
Florida	D	D	D/C	C	C	C	C	C	C	C	C/D	D
Georgia	D	D	D/C	C	C	C	C/B	B	E/C	C	C/D	D
Hawaii	C	C	C	C	C	C	C	C	C	C	C	C
Idaho	E	E/D	D	D/C	C/B	B	B	B	B	B/C	C/D	D/E
Illinois												
N 40° Latitude	E	E	E/D	D	D/C	C	C	C	C	C/D	D/E	E
S 40° Latitude	E	E	E/D	D/C	C	C	C/B	B/C	C	C/D	D	D/E
Indiana	E	E	E/D	D	D/C	C	C	C	C	C/D	D/E	E
Iowa	E	E	E/D	D/C	C	C/B	B/C	C	C	C/D	D/E	E
Kansas	E	E/D	D/C	C	C/B	B	B	B	B	B/C	C/D	D/E
Kentucky	E	E/D	D	D/C	C	C	C	C	C	C/D	D/E	E
Louisiana	D	D	D/C	C	C	C	C/B	B	B/C	C	C/D	D
Maine	E	E	E/D	D	D/C	C	C	C	C/D	D	D/E	E
Maryland	E	E	E/D	D	D/C	C	C	C	C	C/D	D/E	E
Massachusetts	E	E	E/D	D	D/C	C	C	C	C/D	D	D/E	E
Michigan	E	E	E/D	D	D/C	C	C	C	C/D	D	D/E	E
Minnesota	E	E	E/D	D	D/C	C	C	C	C	C/D	D/E	E
Mississippi	D	D	D/C	C	C	C	C/B	B	B/C	C	C/D	D
Missouri	E	E/D	D	D/C	C	C/B	B	B	B/C	C/D	D	D/E
Montana	E	E	E/D	D/C	C/B	B	B	B	B/C	C/D	D/E	E
Nebraska	E	E	E/D	D/C	C/B	B	B	B	B	B/C	C/D	D/E
Nevada												
N 38° Latitude	E	E/D	D	D/C	C/B	B	B	B	B	B/C	C/D	D/E
S 38° Latitude	D	D/C	C/B	B	B/A	A	A	A	A	A/B	B/C	C/D
New Hampshire	E	E	E/D	D	D/C	C	C	C	C/D	D	D/E	E
New Jersey	E	E	E/D	D	D/C	C	C	C	C/D	D	D/E	E
New Mexico												
N 34° Latitude	E/D	D	D/C	C/B	B/A	A	A	A/B	B	B/C	C/D	D
S 34° Latitude	D	D/C	C/B	B	B/A	A	A	A	A/B	B/C	C/D	D
New York	E	E	E/D	D	D/C	C	C	C	C/D	D	D/E	E
North Carolina	E/D	D	D	D/C	C	C	C/B	B	B/C	C/D	D	D/E
North Dakota	E	E	E/D	D	D/C	C/B	B	B	B/C	C/D	D/E	E
Ohio	E	E	E/D	D	D/C	C	C	C	C	C/D	D/E	E
Oklahoma	E/D	D	D/C	C	C/B	B	B	B	B	B/C	C/D	D/E
Oregon												
E 122° Longitude	E	E/D	D	D	D/C	C/B	B	B	B/C	C/D	D	D/E
W 122° Longitude	E	E/D	D	D	D/C	C	C	C	C	C/D	D/E	E
Pennsylvania	E	E	E/D	D	D/C	C	C	C	C/D	D	D/E	E
Rhode Island	E	E	E/D	D	D/C	C	C	C	C/D	D	D/E	E
South Carolina	D	D	D	D/C	C	C	C/B	B	B/C	C/D	D	D
South Dakota	E	E	E/D	D/C	C/B	B	B	B	B	B/C	C/D	D/E
Tennessee	E/D	D	D	D/C	C	C	C/B	B	B/C	C/D	D	D/E
Texas												
E 99° Longitude	D	D	D/C	C	C	C/B	B	B	B	B/C	C/D	D
W 99° Longitude	D	D/C	C/B	B	B/A	A	A	A	A/B	B/C	C/D	D
Utah	E	E/D	D	D/C	C/B	B	B/A	A/B	B	B/C	C/D	D/E
Vermont	E	E	E/D	D	D/C	C	C	C	C/D	D	D/E	E
Virginia	E	E/D	D	D/C	C	C	C	C	C	C/D	D/E	E

TABLE 2 Continued

State	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Washington												
E 122° Longitude	E	E	E/D	D	D/C	C/B	B	B	B/C	C/D	D/E	E
W 122° Longitude	E	E	E/D	D	D/C	C	C	C	C	C/D	D/E	E
West Virginia	E	E	E/D	D	D/C	C	C	C	C	C/D	D/E	E
Wisconsin	E	E	E/D	D	D/C	C	C	C	C	C/D	D/E	E
Wyoming	E	E	E/D	D/C	C/B	B	B	B	B	B/C	C/D	D/E

<sup>4</sup> Details of State Climatological Division by county as indicated.

California, North Coast—Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Trinity

California, Interior—Lassen, Modoc, Plumas, Sierra, Siskiyou, Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Kern (except that portion lying east of the Los Angeles County Aqueduct), Kings, Madera, Mariposa, Merced, Placer, Sacramento, San Joaquin, Shasta, Stanislaus, Sutter, Tehama, Tulare, Tuolumne, Yolo, Yuba, Nevada

California, South Coast—Orange, San Diego, San Luis Obispo, Santa Barbara, Ventura, Los Angeles (except that portion north of the San Gabriel Mountain range and east of the Los Angeles County Aqueduct)

California, Southeast—Imperial, Riverside, San Bernardino, Los Angeles (that portion north of the San Gabriel Mountain range and east of the Los Angeles County Aqueduct), Mono, Inyo, Kern (that portion lying east of the Los Angeles County Aqueduct)

TABLE 3 Gasoline Antiknock Indexes and Their Application

Leaded Gasoline (for vehicles that can or must use leaded gasoline)	
Antiknock Index (RON + MON)/2, min <sup>a,b</sup>	Application
87	Meets antiknock requirements of most 1971 and later model vehicles that can use leaded gasoline and of pre-1971 vehicles with low antiknock requirements.
88	Meets antiknock requirements of most 1970 and prior model vehicles that were designed to operate on leaded gasoline, and of 1971 and later model vehicles that can use leaded gasoline and have high antiknock requirements.
89	Meets antiknock requirements of medium and heavy duty trucks that require higher octane leaded gasoline.
92	Suitable for most vehicles with very high antiknock requirements that can use leaded gasoline.
Unleaded Gasoline (for vehicles that can or must use unleaded gasoline)	
Antiknock Index (RON + MON)/2, min <sup>a,b</sup>	Application
85	For vehicles with low antiknock requirements.
87 <sup>c</sup>	Meets antiknock requirements of most 1971 and later model vehicles.
90	For most 1971 and later model vehicles with high antiknock requirements.

<sup>a</sup> Reductions for seasonal variations are allowed in accordance with Fig. 1.

<sup>b</sup> Reductions for altitude are allowed in accordance with Fig. 2.

<sup>c</sup> In addition, Motor octane number must not be less than 82.0.



FIG. 1 Antiknock Index Reductions for Weather<sup>4</sup>

	J	F	M	A	M	J	J	A	S	O	N	D
Northeast	1.0	0.5	0.5	0	0	0	0	0	0	0.5	0.5	1.0
Southeast	0.5	0	0	0	0	0.5	0.5	0.5	0.5	0	0	0.5
Midwest	1.0	0.5	0.5	0	0	0	0	0	0	0	0.5	1.0
Northwest	1.0	1.0	0.5	0.5	0	0	0	0	0	0	0.5	1.0
Southwest	1.0	0.5	0	0	0	0	0	0	0	0	0.5	1.0
California												
No. Coast <sup>a</sup>	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0	0	0.5	0.5
So. Coast <sup>a</sup>	0	0	0.5	0.5	1.0	1.0	1.0	0.5	0.5	0	0	0
Alaska	1.0	1.0	0.5	0.5	0	0	0	0	0	0	0.5	1.0
Hawaii	0	0	0	0	0	0	0	0	0	0	0	0

<sup>4</sup> Reductions also apply to Motor octane number requirement for unleaded gasolines with an antiknock index of 87 to 89.9.  
<sup>a</sup> Details of California coastal areas are shown in Footnote A of Table 2.



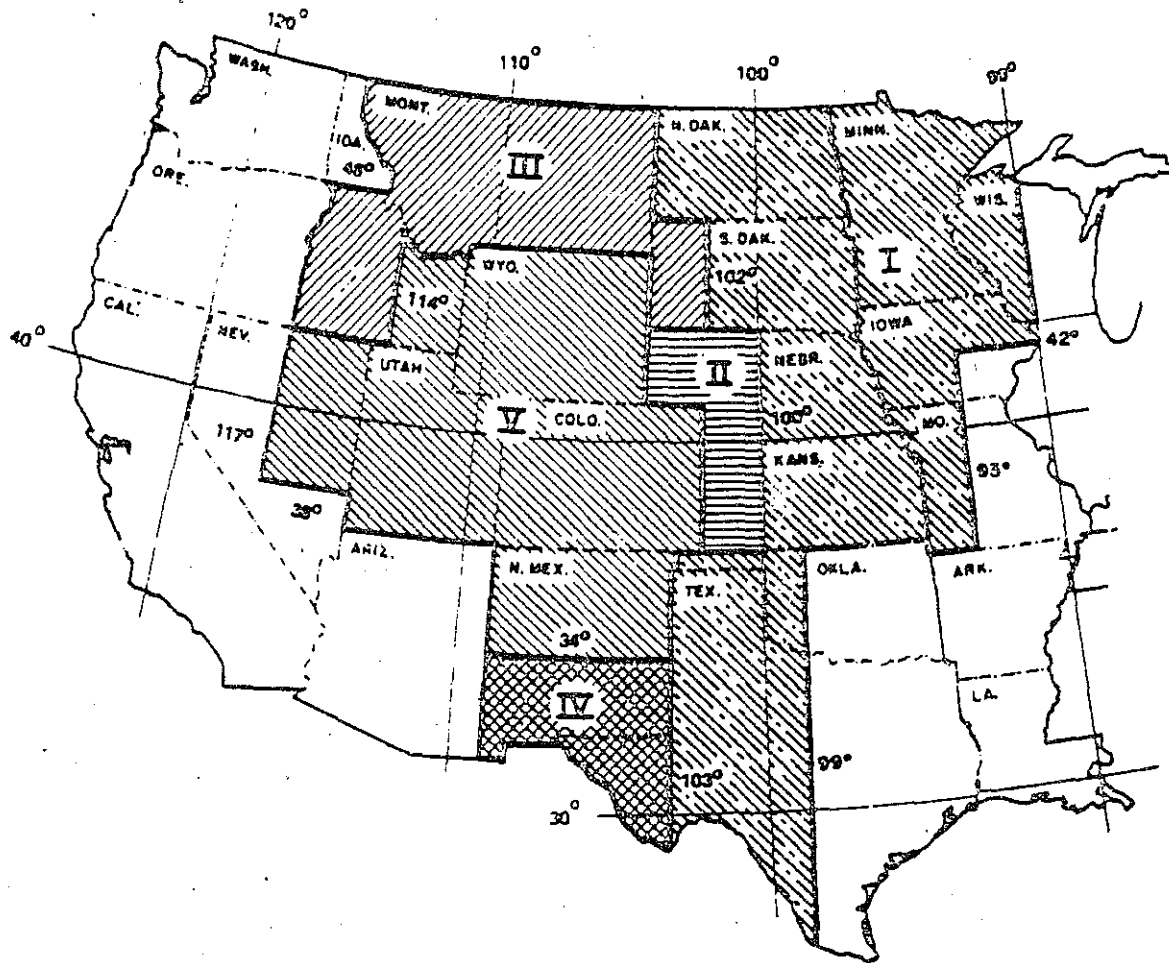


FIG. 2 Antiknock Index Reductions for Altitude

Antiknock Index Reductions by Altitude Area

Area	Less than 89 <sup>4</sup>	89 or Greater
I	0.7	0.5
II	1.5	1.5
III	2.2	1.5
IV	3.0	2.0
V	4.5	3.0

<sup>4</sup>Reductions also apply to Motor octane number requirement for unleaded gasoline with an antiknock index of 87 to 88.9

B-24  
E-13

## APPENDICES

(Nonmandatory Information)

## X1. SIGNIFICANCE OF ASTM SPECIFICATION FOR AUTOMOTIVE GASOLINE

## X1.1 General

X1.1.1 Antiknock rating and volatility define the general characteristics of gasoline. Other characteristics relate to limiting the concentration of undesirable components so that they will not adversely affect engine performance; and ensuring the stability of gasoline as well as its compatibility with materials used in engines and their fuel systems.

X1.1.2 Gasoline is a complex mixture composed of relatively volatile hydrocarbons that vary widely in their physical and chemical properties. Gasoline is exposed to a wide variety of mechanical, physical, and chemical environments. Thus, the properties of gasoline must be balanced to give satisfactory engine performance over an extremely wide range of operating conditions. The prevailing standards for gasoline represent compromises among the numerous quality and performance requirements. This ASTM specification is established on the basis of the broad experience and close cooperation of producers of gasoline, manufacturers of automotive equipment, and users of both.

## X1.2 Antiknock Rating

X1.2.1 The fuel-air mixture in the cylinder of a spark-ignition engine will, under certain conditions, autoignite in localized areas ahead of the flame front that is progressing from the spark. This may cause an audible "ping" or knock. The antiknock rating of a gasoline is a measure of its resistance to knock, and depends on engine design and operation, as well as atmospheric conditions. Gasoline with an antiknock rating higher than that required for knock-free operation does not improve performance. However, vehicles equipped with knock limiters may show a performance improvement as the antiknock rating of the gasoline used is increased. Conversely, a decrease in antiknock rating may cause vehicle performance loss. The loss of power and the damage to an automotive engine due to knocking are generally not significant until the knock intensity becomes very severe. Heavy and prolonged knocking may cause power loss and damage to the engine.

## X1.3 Octane Number

X1.3.1 The two recognized laboratory engine test methods for determining the antiknock rating of gasolines are the Research method and the Motor method. The following paragraphs define the two methods and describe their significance as applied to various equipment and operating conditions.

X1.3.2 Research octane number is determined by a

method that measures gasoline antiknock level in a single-cylinder engine under mild operating conditions: namely, at a moderate inlet mixture temperature and a low engine speed. It indicates gasoline antiknock performance in engines at wide-open throttle and low-to-medium engine speeds.

X1.3.3 Motor octane number is determined by a method that measures gasoline antiknock level in a single-cylinder engine under more severe operating conditions than those employed in the Research method: namely, at a higher inlet mixture temperature and at a higher engine speed. It indicates gasoline antiknock performance in engines operating at wide-open throttle and high engine speeds. Also, it indicates gasoline antiknock performance under part-throttle road-load conditions.

X1.3.4 The most extensive data base that relates the laboratory engine test methods for Research and Motor octane to actual field performance of gasolines in vehicles is the annual Coordinating Research Council (CRC) Octane Number Requirement Survey conducted for new light duty vehicles. These data show that the antiknock performance of a gasoline in some vehicles may correlate best with Research octane number, while in others it may correlate best with Motor octane number. These correlations also differ from model year to model year or from vehicle population to vehicle population, reflecting the changes in engine designs over the years. To provide a single number as guidance to the consumer, the antiknock index, which is the average of the Research and Motor octane numbers,  $(RON + MON)/2$ , was developed. The antiknock index gives an approximate correlation of laboratory engine octane ratings of gasoline with CRC road octane ratings for many vehicles, but the user must be guided also by experience as to which gasoline is most appropriate for an individual vehicle. The antiknock index formula is reviewed continuously and may have to be adjusted in the future as engines and gasolines continue to evolve. The present  $(RON + MON)/2$  formula is not an absolute measure of gasoline antiknock performance in general or in a specific vehicle.

X1.3.5 The octane requirement (the octane number of gasoline required for satisfactory vehicle operation with respect to knock) of vehicles decreases as altitude increases, primarily because of the reduction in mixture density caused by reduced atmospheric pressure. However, altitude does not affect octane requirements of all cars uniformly. Also, the effect can be smaller for vehicles equipped with barometric pressure sensors and other compensation devices than for vehicles not equipped with such devices. In general, the decrease in

octane requirement is larger for low octane requirement vehicles.

X1.3.5 (1) Tests by the CRC and other organizations have shown that the decrease in octane requirements with altitude is larger for 1971 and later model uncompensated cars, designed to use a gasoline with an antiknock index of 87, than for pre-1971 cars. The pre-1971 cars generally have high compression ratios and use gasolines with an antiknock index of 88 and higher. Gasolines with antiknock indexes below 89 are adjusted by a larger reduction factor than those with an antiknock index of 89 or greater.

X1.3.5 (2) Boundaries of the areas defined in Fig. 2 and the corresponding antiknock index reductions were established to protect cars driven from a high to a lower altitude (and hence higher octane requirement) area while using gasoline obtained in the high-altitude area.

X1.3.6 Vehicle octane requirements on the average rise with increasing atmospheric temperature by 0.097 MON per degree Celsius (0.054 MON per degree Fahrenheit), and decrease with increasing specific humidity by 0.245 MON per gram of water per kilogram of dry air (0.035 MON per grain of water per pound of dry air). Because temperature and humidity of geographical areas are predictable throughout the year from past weather records, octane levels of can be seasonally adjusted to match seasonal changes in vehicle octane requirements. Figure 1 defines the boundaries of areas and the seasonal variations recommended for antiknock index variations.

#### X1.4 Antiknock Additives

X1.4.1 In addition to selecting the appropriate antiknock index to meet vehicle antiknock needs, a choice must be made between leaded and unleaded gasoline. Vehicles that must use unleaded gasoline are required by Environmental Protection Agency (EPA) regulation to have permanent labels on the instrument panel and adjacent to the gasoline tank filler inlet reading "Unleaded Fuel Only." Most 1975 and later model passenger cars and light trucks are in this category. Most 1971-74 vehicles can use leaded or unleaded gasoline. Pre-1971 vehicles were designed for leaded gasoline; however, unleaded gasoline of suitable antiknock index may generally be used in these vehicles, except that leaded gasoline should be used periodically (after a few tankfuls of unleaded gasoline have been used). Leaded gasoline may be required in some vehicles, particularly trucks, in heavy duty service. Instructions on gasoline selection are normally provided in publications of vehicle manufacturers (for example, owners' manuals, service bulletins, etc.). Antiknock agents other than lead alkyls may be used to increase the antiknock index of gasolines, and their concentrations may also be limited due to either performance or legal requirements.

#### X1.5 Volatility

X1.5.1 In most spark-ignition internal combustion engines, the gasoline is metered in liquid form through the carburetor or fuel injector, and is mixed with air and partially vaporized before entering the cylinders of the engine. Consequently, volatility is an extremely important characteristic of motor gasoline.

X1.5.2 At high operating temperatures, gasolines

may boil in fuel pumps, lines, or carburetors. If too much vapor is formed, the fuel flow to the engine may be decreased, resulting in loss of power, rough engine operation, or engine stoppage. These conditions are known as "vapor lock." Conversely, gasolines that do not vaporize sufficiently may cause hard starting of cold engines and poor warm-up performance. These conditions can be minimized by proper selection of volatility requirements, but cannot always be avoided. For example, during spring and fall a gasoline of volatility suitable for satisfactory starting at low ambient temperatures may cause problems in some engines under higher ambient temperature operating conditions.

X1.5.3 Five volatility classes of gasoline are provided to satisfy vehicle performance requirements under different climatic conditions. The schedule for seasonal and geographical distribution indicates the appropriate volatility class or classes for each month in all areas of the United States, based on altitudes and on expected air temperatures. Volatility limits are established in terms of vapor-liquid ratio, vapor pressure, and distillation properties.

X1.5.4 For sea-level areas outside of the United States, the following ambient temperatures are for guidance in selecting the appropriate volatility class:

Volatility Class	10th Percentile 6-h Minimum Daily Temperatures, °C (°F)	90th Percentile Maximum Daily Temperatures, °C (°F)
A	>16 (60)	≥43 (110)
B	>10 (50)	<43 (110)
C	>4 (40)	<36 (97)
D	>-7 (20)	<29 (85)
E	≤-7 (20)	<21 (69)

The 6-hour minimum temperature is the highest temperature of the six coldest consecutive hourly temperature readings of a 24-hour day. The 6-hour minimum temperature provides information on the cold-soak temperature experienced by a vehicle. The 10th percentile of this temperature statistic indicates a 10 % expectation that the 6-hour minimum temperature will be below this value during a month. The 90th percentile maximum temperature is the highest temperature expected during 90 % of the days, and provides information relative to peak vehicle operating temperatures during warm and hot weather. For areas above sea level, the 10th percentile 6-hour minimum temperature should be increased by 3.6°C/1 000 m (2°F/1 000 ft) of altitude, and the 90th percentile maximum should be increased by 4.4°C/1 000 m (2.4°F/1 000 ft) of altitude before comparing them to the sea level temperature. These corrections compensate for changes in fuel volatility caused by changes in barometric pressure due to altitude.

#### X1.6 Vapor Pressure

X1.6.1 The vapor pressure of gasoline must be sufficiently high to ensure ease of engine starting, but it must not be so high as to contribute to vapor lock.

#### X1.7 Vapor-Liquid Ratio

X1.7.1 Vapor-liquid (V/L) ratio is the ratio of the volume of vapor formed at atmospheric pressure to the volume of gasoline tested in Test Method D 2533. The

V  
S  
M  
F  
I

$V/L$  ratio increases with temperature for any given gasoline.

X1.7.2 The temperature of the fuel system and the  $V/L$  ratio that can be tolerated without vapor lock vary from vehicle to vehicle and with operating conditions. The tendency of a gasoline to cause vapor lock, as evidenced by loss of power during full-throttle accelerations, is indicated by the gasoline temperature at  $V/L$  ratios of approximately 20. The temperature at which the maximum  $V/L$  ratio is specified for each gasoline volatility class is based on the ambient temperatures and the altitude associated with the use of the class.

#### X1.8 Vapor-Liquid Ratio (Estimated)

X1.8.1 Three techniques for estimating temperature- $V/L$  values using Reid vapor pressure (Test Method D 323 or D 2551) and distillation (Method D 86) results are given in Appendix X2.

#### X1.9 Distillation

X1.9.1 Method D 86 for distillation provides another measure of the volatility of gasoline. Table 1 designates the limits for end-point temperature and the temperatures at which 10 %, 50 %, and 90 % by volume of the gasoline is evaporated. These distillation characteristics, along with vapor pressure and  $V/L$  ratio characteristics, affect the following vehicle performance characteristics: starting, driveability, vapor lock, dilution of the engine oil, fuel economy and carburetor icing.

X1.9.2 The 10% evaporated temperature of gasoline should be low enough to ensure starting under normal temperatures.

X1.9.3 Gasolines having the same 10 % and 90 % evaporated temperatures may vary considerably in driveability performance because of differences in the

boiling temperatures of the intermediate components or fractions. Driveability and idling quality are affected by the 50 % evaporated temperature. The 90 % evaporated and end-point temperatures should be low enough to minimize dilution of the engine oil.

#### X1.10 Corrosion

X1.10.1 Gasolines must pass the copper strip corrosion test to minimize corrosion of copper parts in fuel systems. Some gasolines corrode other fuel system metals, but there are no ASTM test methods to evaluate corrosion of these metals.

#### X1.11 Existent Gum

X1.11.1 The test for existent gum measures the amount of residue after evaporation of the gasoline and after a heptane wash. The heptane wash removes the heptane-soluble material such as additives and nonvolatile oils, which may have been added to gasoline. Excess existent gum may cause harmful carburetor, engine intake manifold and intake valve deposits.

#### X1.12 Sulfur

X1.12.1 The limit on sulfur content is included to protect against engine wear, deterioration of engine oil, and corrosion of exhaust system parts.

#### X1.13 Oxidation Stability

X1.13.1 The induction period as measured in the oxidation stability test is used as an indication of the resistance of gasoline to gum formation in storage. Experience indicates that gasolines with an induction period equal to or greater than that in Table 1 generally have acceptable short-term storage stability. However, correlation of the induction period with the formation of gum in storage may vary markedly under different storage conditions and with different gasolines.

## X2. ESTIMATING TEMPERATURE- $V/L$ VALUES FOR GASOLINE

### X2.1 Scope

X2.1.1 Three techniques are presented here for estimating temperature- $V/L$  data on gasolines from Reid vapor pressure and distillation test results.<sup>6</sup> They are provided for use as a guide line when  $V/L$  data measured by Test Method D 2533 are not available. One method is designed for computer processing, one is a simpler linear technique, while the other is a nomogram form of this linear equation.

X2.1.2 These techniques are not optional procedures for measuring  $V/L$ . They are supplementary tools for estimating temperature- $V/L$  relationships with reasonable accuracy when used with due regard for their limitations.

X2.1.3 Test Method D 2533 is the referee  $V/L$  procedure and shall be used when calculated values are questionable.

X2.1.4 These techniques are not intended for, nor are they necessarily applicable to, fuels of extreme distillation or chemical characteristics such as would be outside the range of normal commercial motor gasolines. Thus, they are not applicable in all instances to gasoline blending stocks or specially blended fuels.

### X2.2 Computer Method

X2.2.1 *Summary*—The values of four intermediate functions, *A*, *B*, *C*, and *D*, are derived from the gasoline vapor pressure and distillation temperatures at 10, 20, and 50 % evaporated. Values for *A*, *B*, *C*, and *D* may be obtained either from equations or from a set of charts. X2.2.2.1 through X2.2.2.3 provide *A*, *B*, *C*, and *D* values using SI units. X2.2.2.6 through X2.2.2.8 provide *A*, *B*, *C*, and *D* values using inch-pound units. Estimated temperatures at  $V/L$  ratios 4, 10, 20, 30, and 45 are then calculated from *A*, *B*, *C*, and *D*. Estimated temperatures at intermediate  $V/L$  ratios may be ob-

<sup>6</sup> A correlation of temperature- $V/L$  ratio data with vapor pressure and distillation data was developed in 1943 and restudied in 1963 by panels of the Coordinating Research Council, Inc. See "Correlation of Gasoline Vapor Forming Characteristics with Inspection Test Data," *CRC Report No. 159*, Jan. 28, 1943 (or SAE Transaction, Vol. 52, August 1944, pp. 364-367) and "Study of CRC Calculated Temperature- $V/L$  Technique," *CRC Report No. 170*, February 1963. The CRC correlation was modified by a task group of Subcommittee A of Committee D-2 to adapt it for computer processing, as well as the linear equation and the nomogram.



$$T_{V/L-20} = 114.5 - 4.1 (RVP) + 0.20 T_{10} + 0.17 T_{50}$$

where:

$T_{V/L-20}$  = temperature, °F, at V/L of 20:1.

RVP = Reid vapor pressure, psi

$T_{10}$  = distillation temperature, °F, at 10 % evaporated, and

$T_{50}$  = distillation temperature, °F, at 50 % evaporated.

#### X2.4 Nomogram Method

X2.4.1 *Summary*—Two nomograms have been developed and are included herein (Figs. X2.9 and X2.10) to provide the same function as the linear equations procedure outlined above. Figure X2.9 is in SI units and Fig. X2.10 is in inch-pound units. The nomograms are based on the two equations and the same limitations apply to their use in estimating V/L (20) temperatures.

X2.4.2 *Procedure*—Obtain 10 % evaporated and 50 % evaporated points from the distillation curve (Method D 96) along with the Reid vapor pressure (Test Methods D 323 or D 2551). Select the SI unit (Fig. X2.9) or inch-pound unit (Fig. X2.10) nomogram based on the units of  $T_{10}$ ,  $T_{50}$ , and RVP. Using a straightedge, locate the intercept on the line between the " $T_{10}$  and  $T_{50}$ " scales after selecting the applicable  $T_{10}$  and  $T_{50}$  values. From this intercept and the proper point on the "RVP" scale, a second intercept can be obtained on the " $T_{V/L-20}$ " scale to provide the desired value directly.

#### X2.5 Precision

X2.5.1 The precision of agreement between temperature-V/L data estimated by any one of these three techniques and data obtained by Test Method D 2533 has not been established.

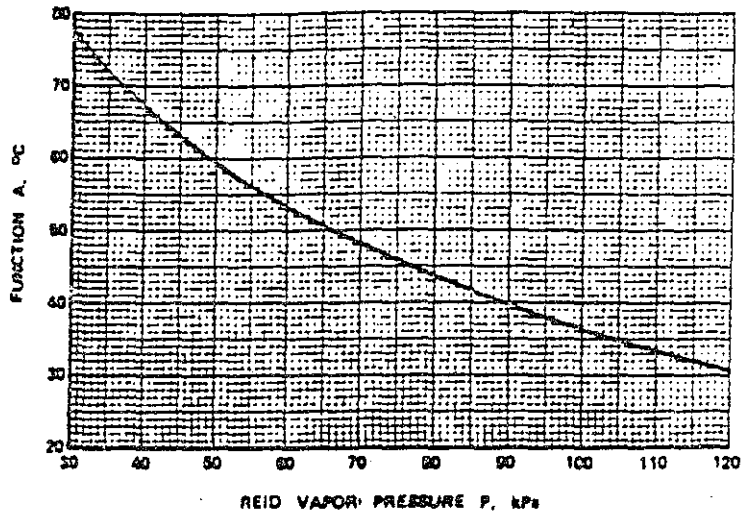


FIG. X2.1 Function A versus Reid Vapor Pressure P

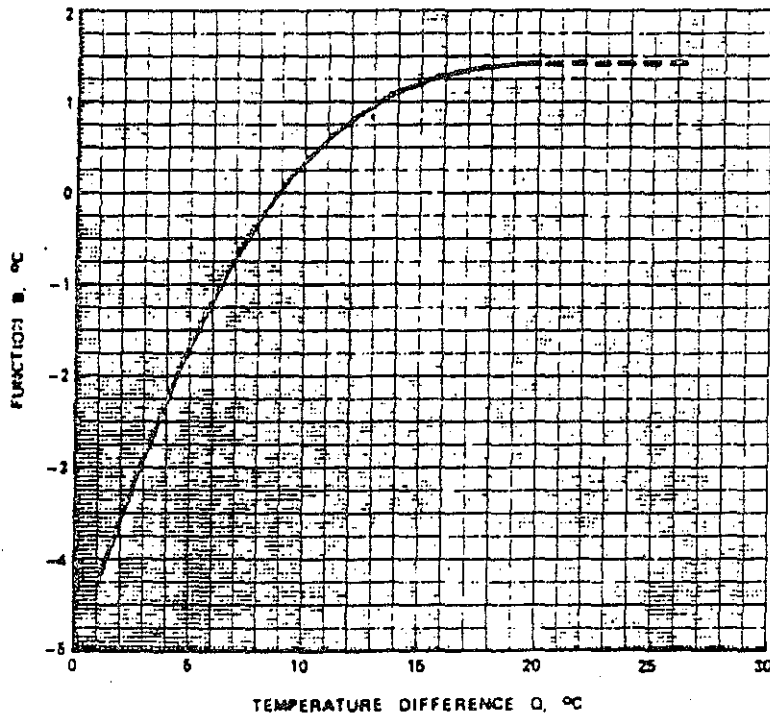


FIG. X2.2 Function B versus Distillation Temperature Difference Q

D  
V  
S  
M  
F  
I

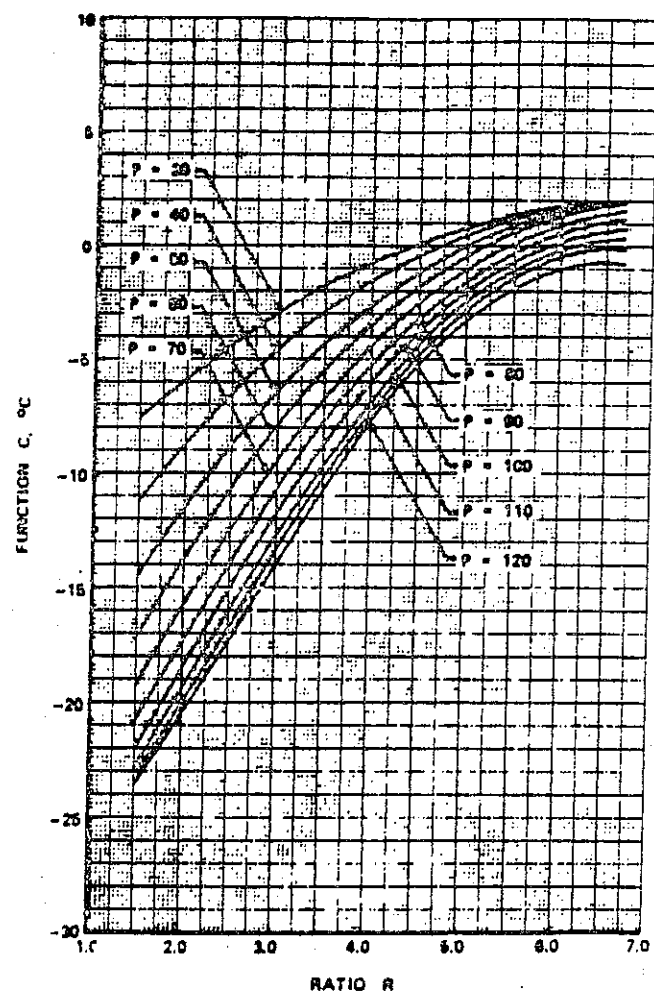


FIG. X2.3 Function C versus Ratio R and Reid Vapor Pressure P

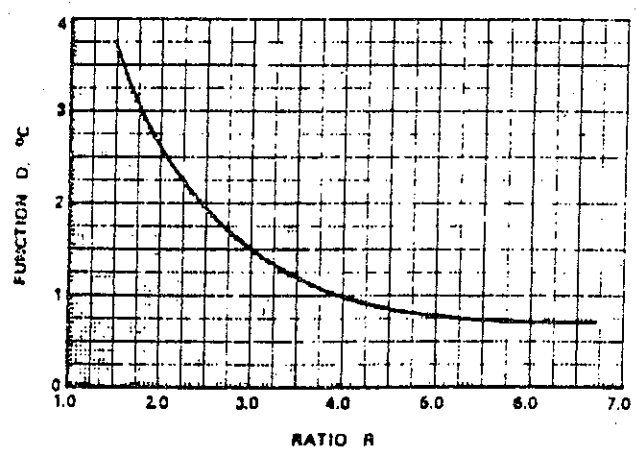


FIG. X2.4 Function D versus Ratio R



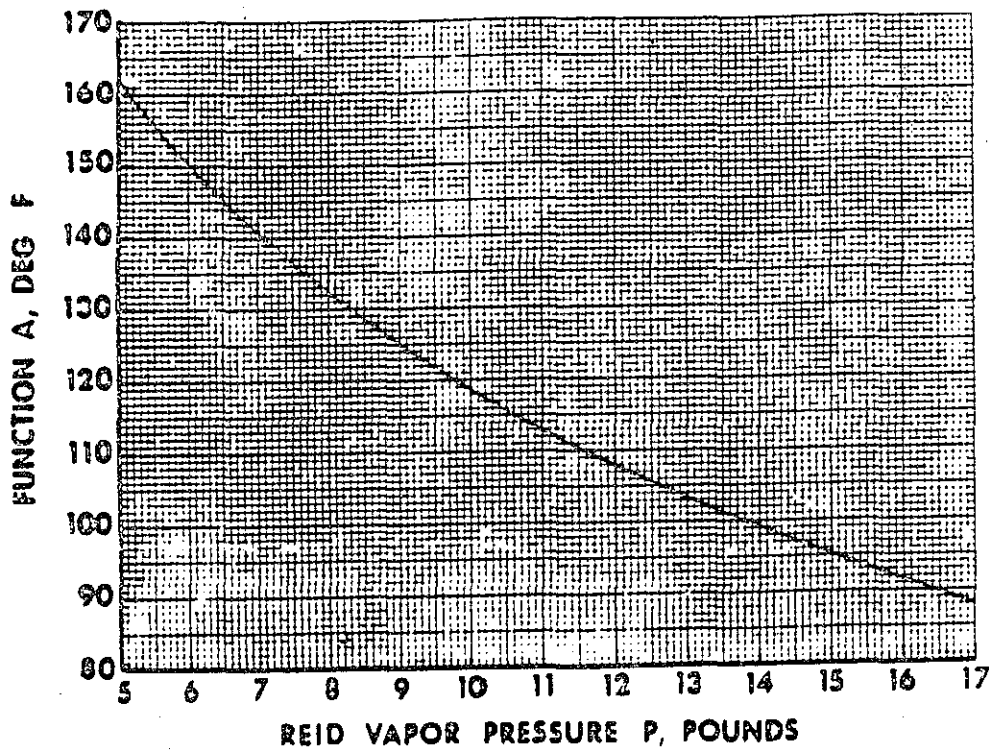


FIG. X2.5 Function A versus Reid Vapor Pressure P

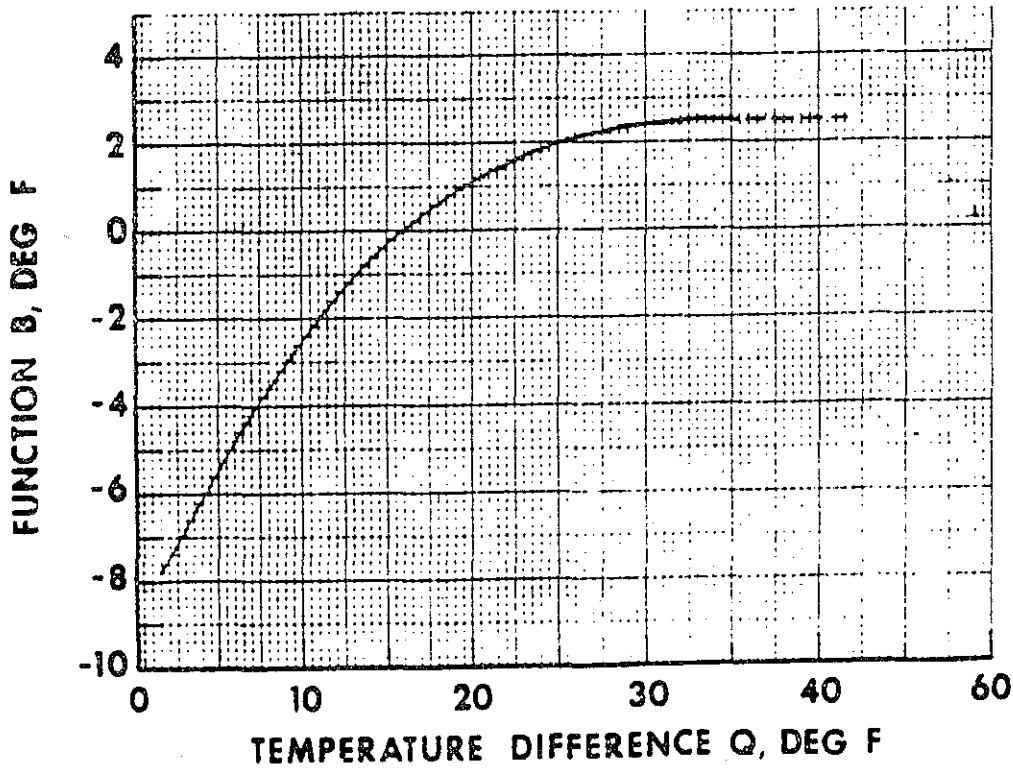


FIG. X2.6 Function B versus Distillation Temperature Difference Q

E-21  
G-32

V  
S  
M  
F

D 429

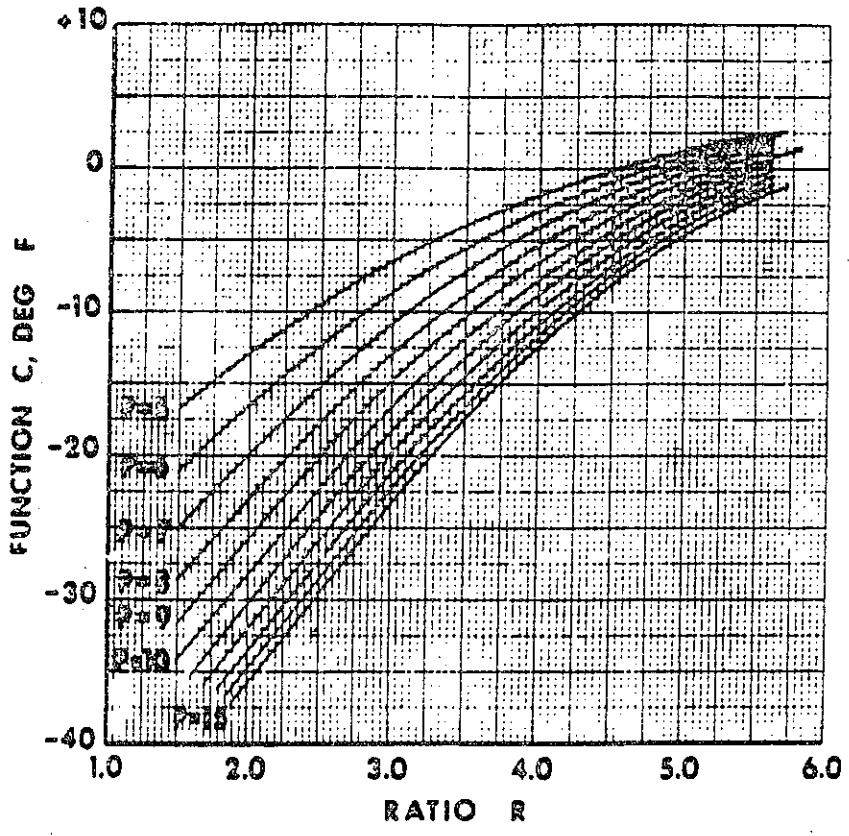


FIG. X2.7 Function C versus Ratio R and Reid Vapor Pressure P

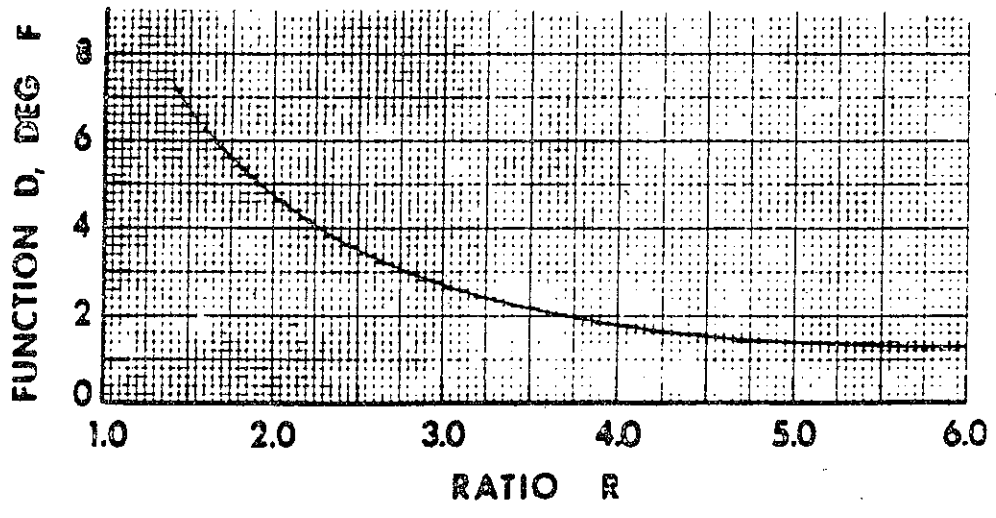


FIG. X2.8 Function D versus Ratio R

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V  
S  
M  
E  
I

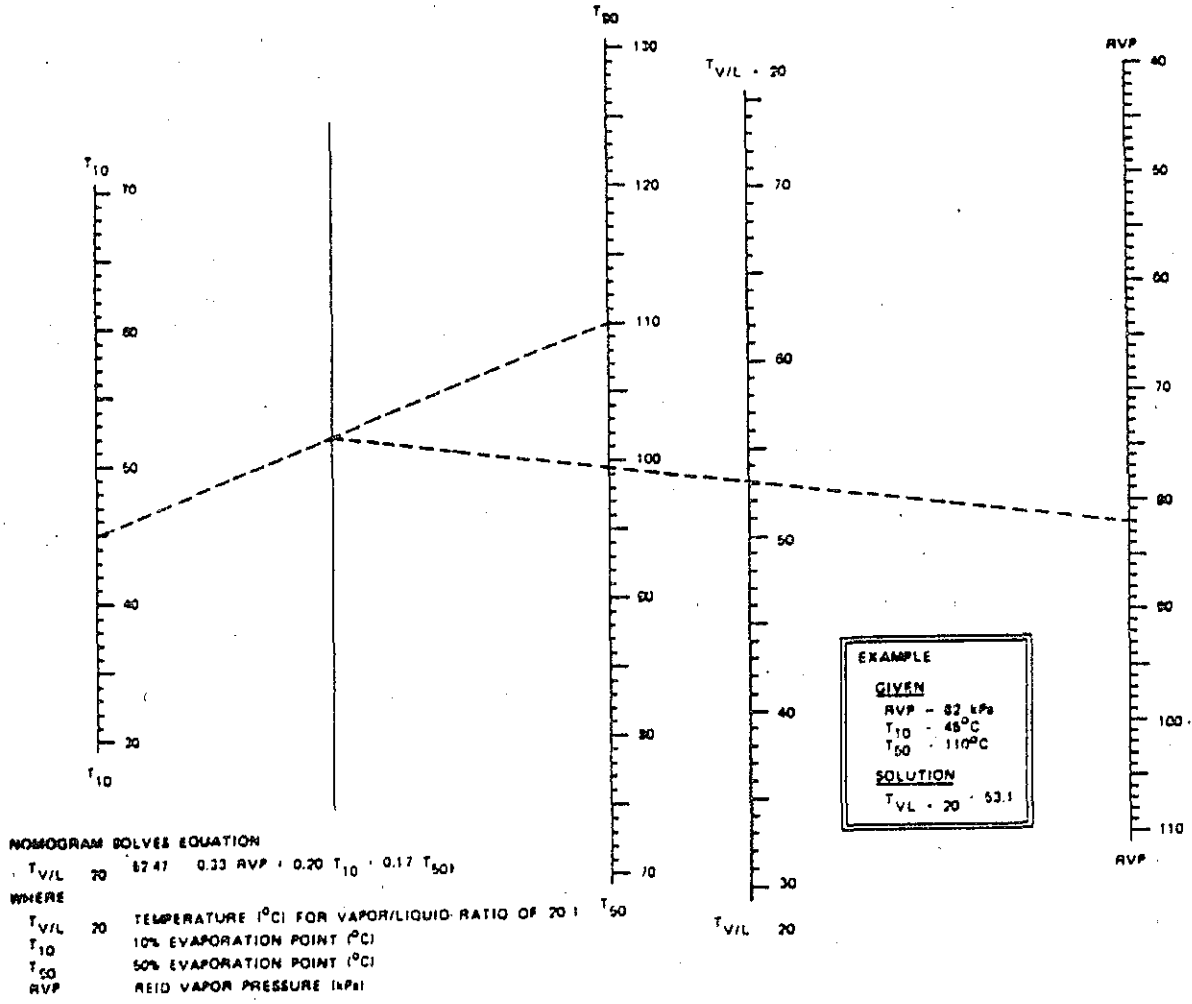


FIG. X2.9 Relationship Between Gasoline Volatility and Temperature for V/L Ratio at Sea Level—SI Units

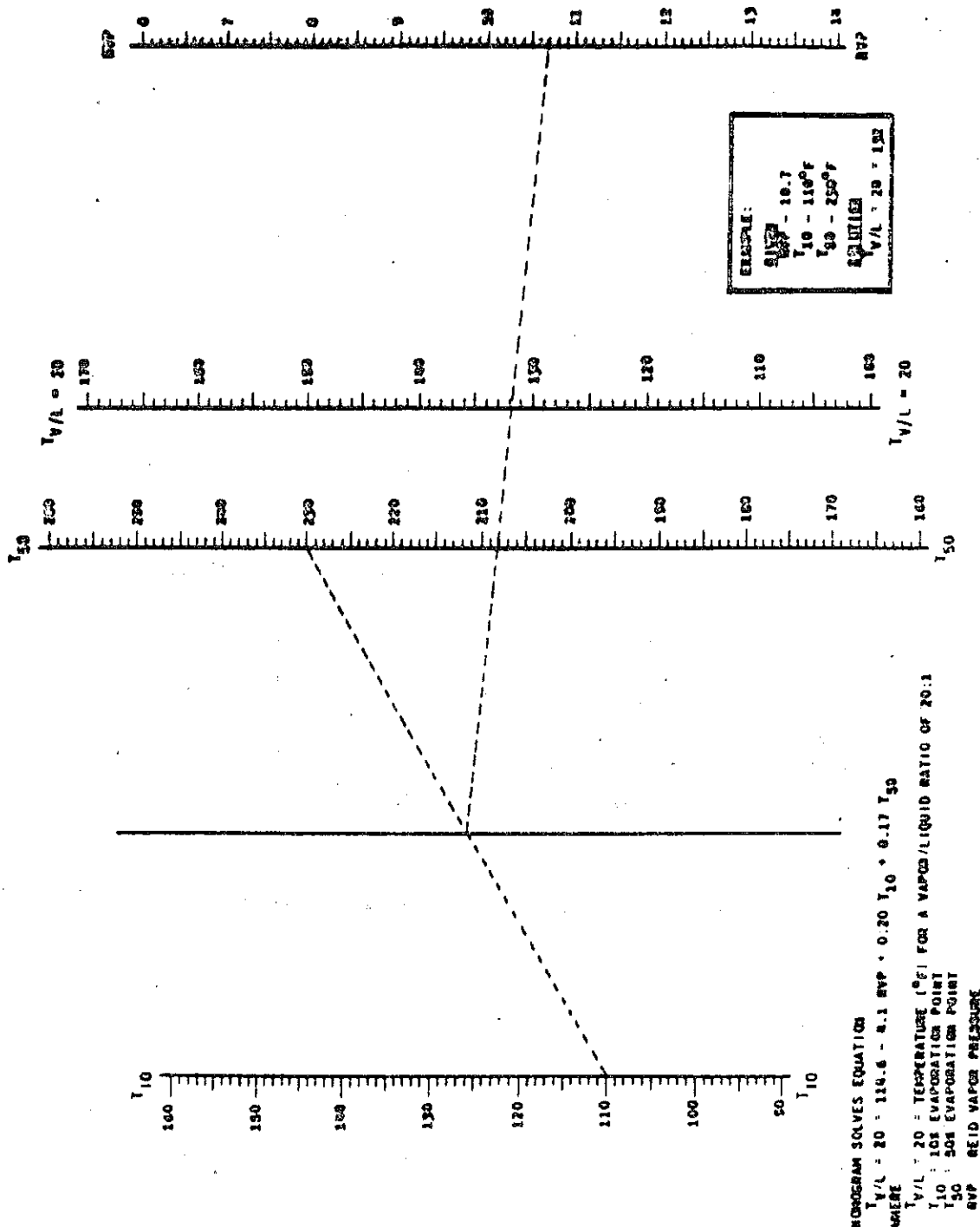


FIG. X2.10 Relationship Between Gasoline Vaporability and Temperature for V/L Ratio of 20 at Sea Level—Inch-Pound Units

The American Society for Testing and Materials takes no position respecting the validity of any patent rights asserted in connection with any item mentioned in this standard. Users of this standard are expressly advised that determination of the validity of any such patent rights, and the risk of infringement of such rights, are entirely their own responsibility.

This standard is subject to revision at any time by the responsible technical committee and must be reviewed every five years and if not revised, either reapproved or withdrawn. Your comments are invited either for revision of this standard or for additional standards and should be addressed to ASTM Headquarters. Your comments will receive careful consideration at a meeting of the responsible technical committee, which you may attend. If you feel that your comments have not received a fair hearing you should make your views known to the ASTM Committee on Standards, 1916 Race St., Philadelphia, PA 19103.

WORK SESSION  
REQUEST FOR EQC DISCUSSION

Meeting Date: 01/19/89  
Agenda Item: 1  
Division: AO  
Section: \_\_\_\_\_

SUBJECT:

Gasoline Volatility Cap

PURPOSE:

To further reduce ozone precursors prior to the 1989 ozone season and thus have greater assurance that the Portland Metropolitan area will be in compliance with national ozone standards.

ACTION REQUESTED:

- Work Session Discussion
  - General Program Background
  - Program Strategy
  - Proposed Policy
  - Potential Rules
  - Other:
    - Policy guidance on implementation of VOC controls by establishing maximum RVP (Reid Vapor Pressure) standards for motor gasoline.
  
- Authorize Rulemaking Hearing
  - Proposed Rules (Draft) Attachment A
  - Rulemaking Statements Attachment \_\_\_\_\_
  - Fiscal and Economic Impact Statement Attachment \_\_\_\_\_
  - Draft Public Notice Attachment \_\_\_\_\_
  
- Adopt Rules
  - Proposed Rules (Final Recommendation) Attachment \_\_\_\_\_
  - Rulemaking Statements Attachment \_\_\_\_\_
  - Fiscal and Economic Impact Statement Attachment \_\_\_\_\_
  - Public Notice Attachment \_\_\_\_\_
  
- Issue Contested Case Decision/Order
  - Proposed Order Attachment \_\_\_\_\_
  
- Other (specify)

Meeting Date: January 19, 1989  
Agenda Item: 1  
Page 2

AUTHORITY/NEED FOR ACTION:

- |   |                     |
|---|---------------------|
| <input checked="" type="checkbox"/> Pursuant to Statute: <u>ORS 468.295</u> | Attachment <u>B</u> |
| Enactment Date: _____   |                     |
| <input type="checkbox"/> Amendment of Existing Rule: _____                  | Attachment _____    |
| <input type="checkbox"/> Implement Delegated Federal Program: _____         | Attachment _____    |
| <input type="checkbox"/> Department Recommendation: _____                   | Attachment _____    |
| <input type="checkbox"/> Other: _____                                       | Attachment _____    |
| <br>  |                     |
| <input checked="" type="checkbox"/> Time Constraints:                       |                     |

To deal with 1989 Summer Ozone (May - Sept) requires policy direction, hearing authorization, public hearing and rule adoption. To meet time constraint, Emergency rule consideration may be necessary.

Gasoline volatility has been increasing in recent years, which has interfered with progress to control ozone. USEPA proposed volatility limits in August of 1987 (to be effective in May of 1989), but USEPA may not finalize in time for the 1989 ozone season.

DESCRIPTION OF REQUESTED ACTION:

Policy direction on whether to proceed on State gasoline volatility cap and regulations.

DEVELOPMENTAL BACKGROUND:

- |  |                          |
|--|--------------------------|
| <input checked="" type="checkbox"/> Department Report (Background/Explanation) | Attachment <u>C</u>      |
| <input type="checkbox"/> Advisory Committee Report/Recommendation              | Attachment _____         |
| <input type="checkbox"/> Hearing Officer's Report/Recommendations              | Attachment _____         |
| <input type="checkbox"/> Response to Testimony/Comments                        | Attachment _____         |
| <input checked="" type="checkbox"/> Prior EQC Agenda Items:                    |                          |
| Agenda Item F, September 27, 1985  |                          |
| Agenda Item M, January 3, 1986   |                          |
| Provide additional background on Oregon Ozone Strategy                         | Attachments Not included |
| <br>   |                          |
| <input type="checkbox"/> Other Related Reports/Rules/Statutes:                 | Attachment _____         |

Meeting Date: January 19, 1989  
Agenda Item: 1  
Page 3

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Helps insure attainment and maintenance of ozone standard.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

Statewide application to major petroleum suppliers, fuel distribution system operations. Would affect gasoline distribution between May - September resulting in an approximate 1¢/gal increase in 1989/91 with price increases of about 2¢/gal long term.

PROGRAM CONSIDERATIONS:

Could require compliance checks by Department staff. Audit of industry records. Periodic inspection and testing.

POLICY ISSUES FOR COMMISSION TO RESOLVE:

Do we wait for EPA? or do we act now?

COMMISSION ALTERNATIVES:

1. Wait for USEPA action.
2. Regular Rules Schedule - Hearing authorization in March 1989, public hearing(s) in April, 1989, rules adoption in June, 1989.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

1. Do not wait for EPA to act on gasoline volatility issue.
2. Proceed expeditiously with public hearings for gasoline volatility rule for Oregon.
3. Hold public hearing(s) in March 1989.

INTENDED FOLLOWUP ACTIONS:

1. Return to Commission for hearing authorization at March EQC meeting.

Meeting Date: January 19, 1989  
Agenda Item: 1  
Page 4

Approved:

Section:

Ron Housholder

Division:

White House

Director:

Lydia Taylor

Contact: Merlyn Hough/Bill Jasper

Phone: 229-6446/229-5081

MH:BJ:d  
AD4252 (EQC.NEW 12/19/88)  
December 29, 1988



Attachment A

POTENTIAL NEW RULES

Gasoline Volatility

Definitions

340-22-060 As used in this regulation, "gasoline" means any petroleum distillate having a Reid Vapor Pressure of more than four pounds as defined by ASTM Method D323.

Reid Vapor Pressure for Gasolines

340-22-065 No person shall sell, distribute, use, or make available for use, any gasoline having a Reid Vapor Pressure greater than 10.5 pounds per square inch during the period May 16 through September 15 of each year, beginning in 1989.

Test Method

340-22-070 Sampling and testing of gasoline shall be in accordance with ASTM Method D323 or an equivalent method approved by the Director.

468.295 Air purity standards; air quality standards. (1) By rule the commission may establish areas of the state and prescribe the degree of air pollution or air contamination that may be permitted therein, as air purity standards for such areas.

(2) In determining air purity standards, the commission shall consider the following factors:

(a) The quality or characteristics of air contaminants or the duration of their presence in the atmosphere which may cause air pollution in the particular area of the state;

(b) Existing physical conditions and topography;

(c) Prevailing wind directions and velocities;

(d) Temperatures and temperature inversion periods, humidity, and other atmospheric conditions;

(e) Possible chemical reactions between air contaminants or between such air contaminants and air gases, moisture or sunlight;

(f) The predominant character of development of the area of the state, such as residential, highly developed industrial area, commercial or other characteristics;

(g) Availability of air-cleaning devices;

(h) Economic feasibility of air-cleaning devices;

(i) Effect on normal human health of particular air contaminants;

(j) Effect on efficiency of industrial operation resulting from use of air-cleaning devices;

(k) Extent of danger to property in the area reasonably to be expected from any particular air contaminants;

(l) Interference with reasonable enjoyment of life by persons in the area which can reasonably be expected to be affected by the air contaminants;

(m) The volume of air contaminants emitted from a particular class of air contamination source;

(n) The economic and industrial development of the state and continuance of public enjoyment of the state's natural resources; and

(o) Other factors which the commission may find applicable.

(3) The commission may establish air quality standards including emission standards for the entire state or an area of the state. The standards shall set forth the maximum amount of air pollution permissible in various categories of air con-

taminants and may differentiate between different areas of the state, different air contaminants and different air contamination sources or classes thereof. (Formerly 449.755)

468.300 When liability for violation not applicable. The several liabilities which may be imposed pursuant to ORS 448.305, 454.010 to 454.040, 454.205 to 454.255, 454.405, 454.425, 454.505 to 454.535, 454.565 to 454.745 and this chapter upon persons violating the provisions of any rule, standard or order of the commission pertaining to air pollution shall not be so construed as to include any violation which was caused by an act of God, war, strife, riot or other condition as to which any negligence or wilful misconduct on the part of such person was not the proximate cause. (Formerly 449.525)

468.305 General comprehensive plan.

Subject to policy direction by the commission, the department shall prepare and develop a general comprehensive plan for the control or abatement of existing air pollution and for the control or prevention of new air pollution in any area of the state in which air pollution is found already existing or in danger of existing. The plan shall recognize varying requirements for different areas of the state. (Formerly 449.732)

468.310 Permits. By rule the commission may require permits for air contamination sources classified by type of air contaminants, by type of air contamination source or by area of the state. The permits shall be issued as provided in ORS 468.065. (Formerly 449.727)

468.315 Activities prohibited without permit; limit on activities with permit. (1) Without first obtaining a permit pursuant to ORS 468.065, no person shall:

(a) Discharge, emit or allow to be discharged or emitted any air contaminant for which a permit is required under ORS 468.310 into the outdoor atmosphere from any air contamination source.

(b) Construct, install, establish, develop, modify, enlarge or operate any air contamination source for which a permit is required under ORS 468.310.

(2) No person shall increase in volume or strength discharges or emissions from any air contamination source for which a permit is required under ORS 468.310 in excess of the permissive discharges or emission specified under an existing permit. (Formerly 449.731)

468.320 Classification of air contamination sources; registration and reporting of sources. (1) By rule the commis-

ATTACHMENT C

MEMORANDUM

To: Environmental Quality Commission  
From: Director  
Subject: Work Session Item January 19, 1989, EQC Meeting  
Gasoline Volatility Cap

BACKGROUND

The U. S. Environmental Protection Agency (EPA) regards the Portland metro area as in continuing non-attainment for ozone. The Department believes the State Implementation Plan (SIP), approved by EPA, has been faithfully implemented and attainment/non-attainment status should be based upon post-1987 monitored air quality values. To achieve compliance, the one hour standard of 0.12 parts per million (ppm) cannot be exceeded more than once per year per monitoring site when averaged over a three year period.

The Department may or may not be successful in convincing EPA that attainment/non-attainment should be based upon post-1987 monitoring. To date, EPA maintains an area's status should depend upon the most recent 3 years of air quality data. Currently that would be the years 1986, 1987, and 1988. If 1986 data is included, the 3 year average is more than one exceedance per site per year. If the 1989 monitored air quality shows little or nothing in the way of exceedances, the 3 year average of 1987, 1988, and 1989 should document the area's attainment status.

Whether attainment is determined solely on the basis of post-1987 air quality or on the most recent three year average of exceedances, 1989 is a critical year for the Portland area. Given the relationship between ozone concentrations and meteorology, and the unpredictability of western Oregon's summer weather, further measures to reduce ozone precursors prior to or during the 1989 ozone season should increase the probability of attainment.

Attainment is an important issue. Under the terms of the Clean Air Act, economic sanctions can be applied to areas that fail to meet the ambient air health standards. Oregon wants to provide a

good environment for its citizens and a good base for economic development.

#### OZONE AND HYDROCARBONS

Ozone can be both protection and pollution in our environment. In the stratosphere, ozone protects the earth from the harmful effects of ultraviolet radiation. There is concern about the depletion of this ozone. At the ground level, ozone is the chemical that is measured to track all photochemical oxidants. When an air pollutant it has undesirable effects on people, plants and materials.

Ozone is a highly reactive compound and the main component of photochemical oxidants or smog. In high concentrations it can cause difficulty in breathing, chest pain, chest and nasal congestion, coughing, eye irritation, nausea and/or headaches. Ozone is a colorless gas that has a pungent metallic odor in high concentrations. It can reduce plant growth and crop yield. It can affect a variety of materials, resulting in fading of paint and fabric and accelerated ageing and cracking of synthetic rubbers and similar materials.

It is formed during the photochemical reaction between oxides of nitrogen (NOx) and volatile organic compounds (VOC) or hydrocarbons. The reactions occur in the presence of direct sunlight and warm temperatures. The highest concentrations of ozone generally occur downwind of urban areas. For example, the highest ozone concentrations in the greater Portland area have been measured in the Milwaukie to Molalla area.

Nitrogen dioxide, a major component of NOx is a toxic reddish-brown gas. It is formed during the combustion processes, such as in automobile engines, boilers, or from a variety of industrial sources.

Volatile organic compounds, in this case hydrocarbons emitted from gasoline, also come from a variety of sources. Hydrocarbons are one of the main components of auto exhaust, and are currently regulated in the inspection/maintenance program. In addition to the tailpipe sources, they are also generated from evaporation of gasoline, both at service stations and from the cars and trucks fuel tanks. This is the specific target area for discussion. Industrial sources are strictly regulated, but can be sizable emitters. Providing significant hydrocarbon reductions from gasoline marketing will help meet the ambient health standards and should allow for economic expansion from another source, such as an electronics manufacturing plant.

Improving the control of VOCs, specifically through the reduction of hydrocarbon emissions resulting from evaporative losses associated with gasoline marketing, will result in a reduction of ozone.

#### CONTROL TECHNIQUES

There are three major methods of controlling hydrocarbons from gasoline marketing operations that can be regulated by the state. They are Stage I, Stage II, and gasoline volatility control. A fourth method, based upon improving the on board vapor storage affects only new motor vehicles, and can only be regulated by the federal government. EPA has been studying this strategy as an option, but has not yet made any decision on improving on board vapor storage.

Stage I controls the emissions during the filling of the fuel trucks at the gasoline distributors and the filling of the underground tanks at the service stations. Stage I controls are in place in the major metropolitan areas in Oregon.

Stage II controls the emissions from the service station when the gasoline is used to fill the vehicle fuel tank. Stage II controls are found in a number of areas in the country and are considered a cost-effective means of obtaining hydrocarbon control.

Gasoline volatility controls regulate the Reid Vapor Pressure. RVP is a measure of how easily gasoline evaporates. The specific test method is defined in ASTM D 323. By regulating the vapor pressure of gasoline, significant emission reductions can be obtained and the value of Stage II type-controls would need to be reevaluated, at least in the short term.

#### EPA ACTION

The most immediately achievable reduction is through the adoption of a limit on the volatility of gasoline sold during the ozone season. Recognizing this, EPA proposed to implement a system of national gasoline evaporative emission standards in August 1987. In western Oregon, a 10.5 psi standard would initially be established, with the standard dropping to 9 psi in 1992. OMB review and delays during the changing of administrations may prevent EPA's volatility limit from taking effect before the 1989 ozone season.

#### STATE ACTION-A BACKUP PLAN

As a safeguard against such a circumstance, the Commission could consider its own action, adopting a limit on gasoline volatility prior to the 1989 ozone season. A phased approach, similar to the EPA approach, of a 10.5 psi (Reid Vapor Pressure) limit in 1989 followed by a 9.0 psi limit in 1991/1992 would probably be the most efficient. The Clean Air Act provides EPA with preemptive authority in setting volatility limits, so it would appear prudent to adopt the same limits proposed by EPA.

Informal discussions with some representatives of the petroleum industry have indicated that a RVP cap on motor gasoline is expected in the future, if only under federal mandate. They have also indicated that the phased approach would pose the least amount of problems to their industry, but have indicated that there may be a great concern at the 9 psi limit. Because of the marketing and distribution system of gasoline in Oregon, a RVP cap on motor gasoline could apply statewide.

#### GASOLINE IN OREGON

The gasoline sold in Oregon comes primarily from the Puget Sound area via the pipeline (60-70%) and California via tanker (about 30%). Other gasoline enters the state by tanker at Coos Bay and from being barged down river from the refineries in the Salt Lake area. Currently, summer gasoline sold in the Portland area during the ozone season averages about 11.5 psi RVP. A reduction to 10.5 psi represents a VOC reduction of approximately 5,000 kilograms per average summer workday, or a 4% reduction in overall VOC emissions. This means that during the 4 month period, May 15 through September 15, the environment would receive about 600 tons of VOC less than received during the same period prior to establishment of a volatility limit.

The question may arise as to what the petroleum refiners will do to change the composition of motor gasoline and can these changes be incorporated into a 1989 time frame. It is the understanding of the staff, that the refineries will be able to accommodate a 10.5 psi RVP fuel for this summer. Simplistically, it will be accomplished by reducing the amount of butane normally blended into motor gasoline.

The cost of reducing the volatility to 10.5 psi is expected to result in under a penny a gallon increase in the cost of gasoline to the consumer. Approximately 44,000,000 gallons per month of gasoline are sold within the Portland metro area during the ozone season. Statewide, there are about 120,000,000 gallons per month of gasoline sold. A \$0.006-\$0.008 increase, therefore, represents an overall cost of \$3-4 million per ozone season, statewide.

However, the lower gasoline volatility would benefit driveability and fuel economy. The benefits of improved fuel economy, while not likely to be noted by the individual motorist, would reduce the net cost to less than \$1 Million per ozone season. This would result in a net cost-effectiveness of \$320-\$500 per ton of VOC reduction. (For perspective, VOC control cost of \$2000 per ton are generally considered reasonable.)

The VOC reductions from a statewide gasoline volatility limit would benefit both the Portland area, and would also help in maintaining the ozone standard in other areas of Oregon, such as Salem, Eugene, and Medford.

Two staff memos are attached to this report. These memos discuss the issues of fuel volatility. They were prepared from different perspectives and provide additional background. The first report examines some of the historical data, showing how fuel volatility has increased over the years and provides some estimates on the emission reductions that might be achieved. The second report discusses the EPA's 1987 volatility proposal and also how the different states address the issues of fuel quality.

#### DISCUSSION ON A PROPOSAL FOR A RULE

To facilitate discussion, proposed rule amendments which would establish a maximum RVP on motor gasoline sold in the state are included in the Commission package. Any rule adoption, would be proposed under ORS 468.295. This is the Commission's general authority for rulemaking.

The staff has had discussions with its counterparts in the Washington Department of Ecology and regional pollution control agencies. Both staffs are working on how to improve hydrocarbon controls through RVP controls. It is a desire that the result from both states will be compatible, since both states appear to be following the same paths. The timetables, however, may be different, since the Seattle area ozone interest is more of a "maintenance" issue, rather than the "compliance" issue in Portland.

The neighboring states of Idaho and California have adopted volatility controls on gasoline. Idaho and California have incorporated all of the standards associated in ASTM D-439. Furthermore, California has specifically adopted a statewide standard of 9.0 psi RVP. California also has very specific legislative mandate for that 9.0 psi standard. The gasoline currently manufactured in California for sale in Oregon does not necessarily meet the tighter California standards.

CONCLUSION

There is an issue of compliance and maintenance with the ozone standard in the Portland metropolitan area for 1989. Obtaining more control on hydrocarbon emissions will result in less pressure on the ozone standard. Hydrocarbon emissions resulting from fuel evaporative losses and gasoline marketing can be controlled through the establishment of both a volatility standard and implementation of Stage II vapor controls, though only the impact of a volatility standard has been discussed. The USEPA has proposed nationwide RVP specifications that would affect the volatility of gasoline sold in Oregon. For a variety of reasons, there is doubt that USEPA will enact volatility standards in sufficient time for the 1989 ozone season. The Commission has the authority to establish RVP standards for motor gasoline sold, and should consider such action as a public health measure, pending action by the USEPA.

If the Commission directs that a program be developed to implement RVP controls for the 1989 ozone season, the phased approach outlined earlier appears reasonable.



DATE: September 30, 1988

TO: John Kowalczyk, Nick Nikkila

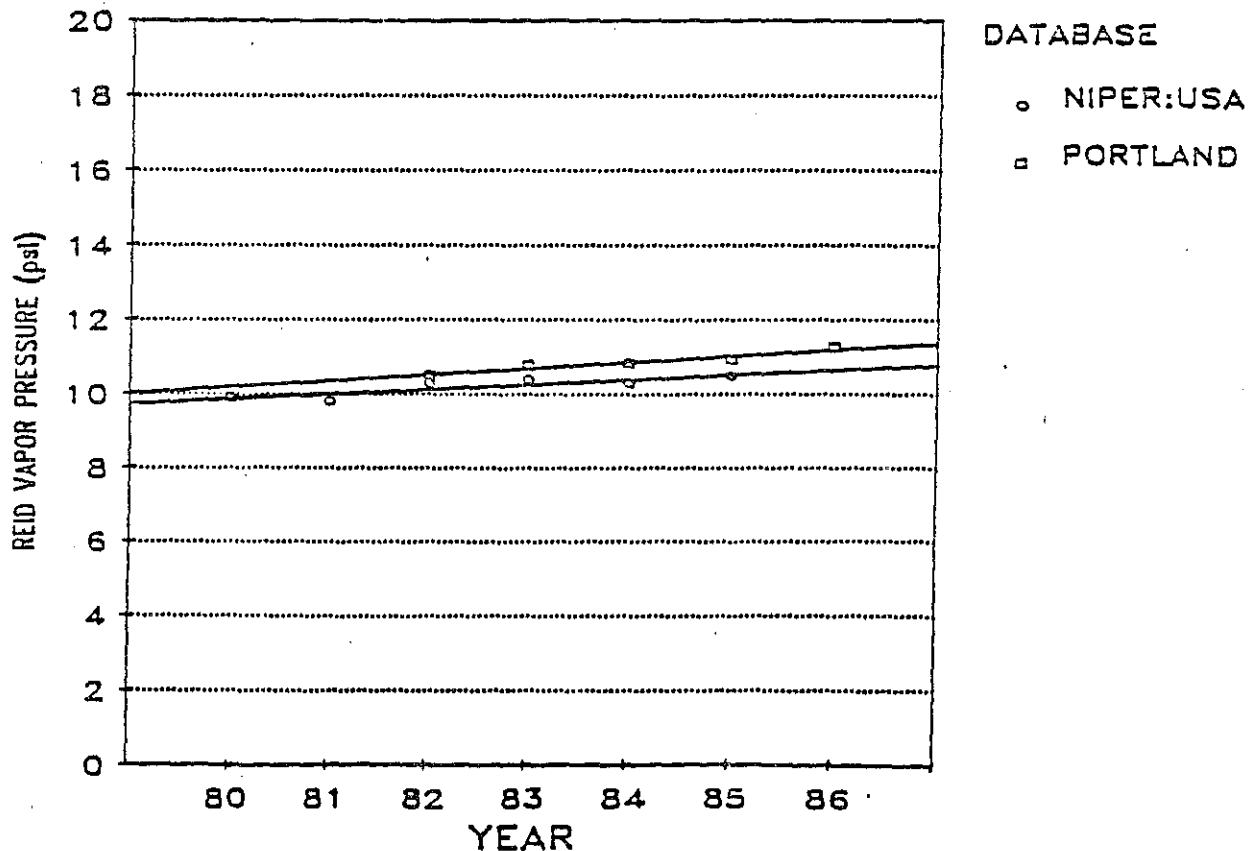
FROM: Merlyn Hough *Merlyn*

SUBJECT: Gasoline Volatility and Stage II Information

BACKGROUND

As you are aware, gasoline volatility has been steadily increasing in the non-California U.S. and Portland in particular in recent years. Figure 1 outlines the trend and shows that the gasoline volatility in Portland has consistently been above the national average. This increasing trend is of concern because it results in more gasoline vapors in the atmosphere which contributes to ozone formation downwind of the Portland area.

Figure 1  
GASOLINE VOLATILITY TRENDS



Three options have been identified to further reduce gasoline-related emissions: (1) Onboard canisters and improved evaporative control systems on new motor vehicles; (2) Volatility limits on gasoline; and (3) Stage II service station controls. The first option (onboard controls) would possibly be the most cost-effective option in the long-term but would require several years to provide significant air quality benefits, would require action at the national level by the U.S. Environmental Protection Agency, and would probably require signoff by the National Highway Traffic Safety Administration regarding safety issues. The second and third options (volatility limits and Stage II controls) could be implemented at either the state or national level.

The three control options would control gasoline vapors in different ways. Onboard controls would reduce refueling emissions (ie, Stage II) and vehicle running losses (diurnal and hot soak emissions). Volatility limits would reduce gasoline evaporation throughout the gasoline distribution system (terminals, bulk plants, barge loading, Stage I and Stage II) and vehicle running losses. Stage II service station controls would reduce gasoline vapors from refueling and evaporation from underground storage tanks but would not affect running losses. Onboard and Stage II controls would also reduce benzene and other toxic emissions. The California Air Resources Board supports and is implementing a multi-faceted approach using all three of these control options.<sup>1</sup>

#### VOLATILITY LIMITS

Portland area gasoline has an average volatility of about 11.5 pounds per square inch (psi) Reid vapor pressure (RVP).<sup>2,3</sup> An RVP reduction of 1.0 psi (to 10.5 psi) would provide a 9% reduction in gasoline distribution system emissions and a 7-8% reduction in vehicle emissions.<sup>4,5</sup> This would provide about a 4% reduction, or a 4-5 megagram per day (Mg/d) reduction, in overall volatile organic compound (VOC) emissions in the Oregon portion of the Portland-Vancouver Air Quality Maintenance Area (Portland AQMA). An RVP reduction of 2.5 psi (to 9.0 psi) would provide a 20-22% reduction in gasoline distribution system emissions and a 15-16% reduction in vehicle emissions.<sup>4,5</sup> This would provide a 7-8% reduction (9-10 Mg/d) in overall VOC emissions in the Portland AQMA. This 7-8% airshed reduction from a 9.0 RVP limit compares to 5-7% calculated airshed benefits for Detroit, Rhode Island, and New York City.<sup>4,6</sup> Since it is on the high side of the range for these other areas, the more conservative lower end of the Portland range is used in the subsequent tables and charts.

Figure 2 outlines the VOC emissions in the Portland AQMA for various RVP gasoline (1986 basis). Figure 3 indicates the VOC reduction for various RVP gasoline.

Figure 2  
 PORTLAND VOC EMISSIONS AT VARIOUS RVPs

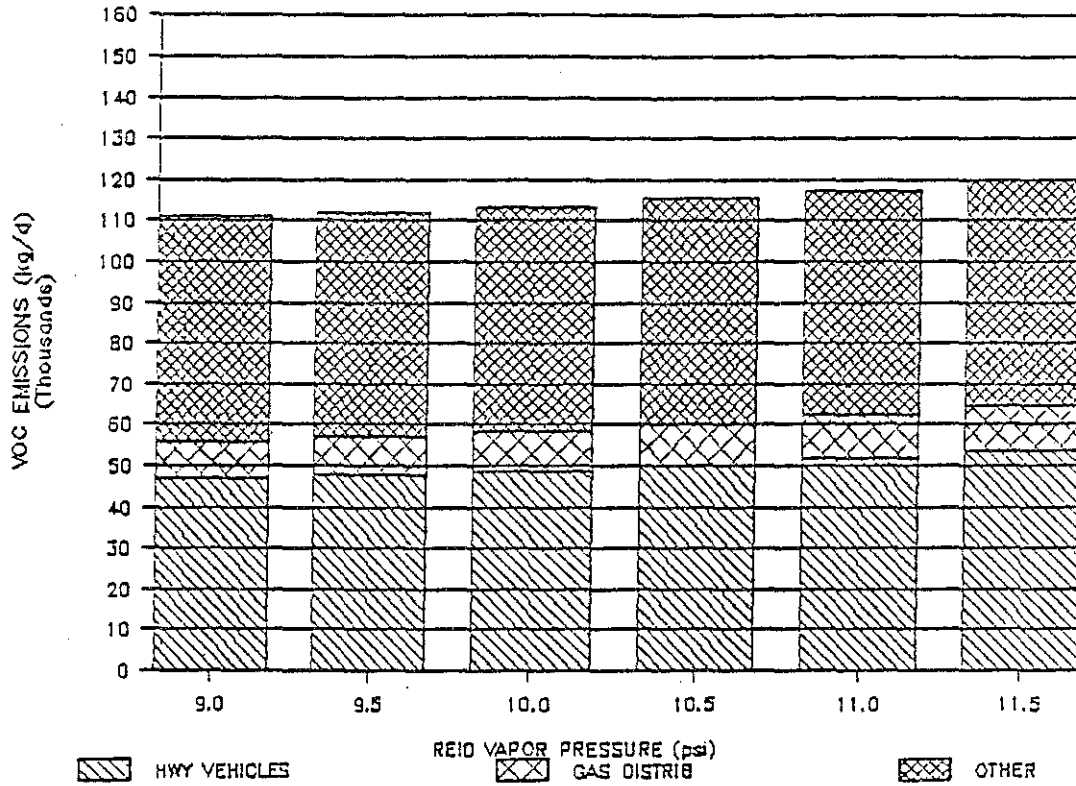
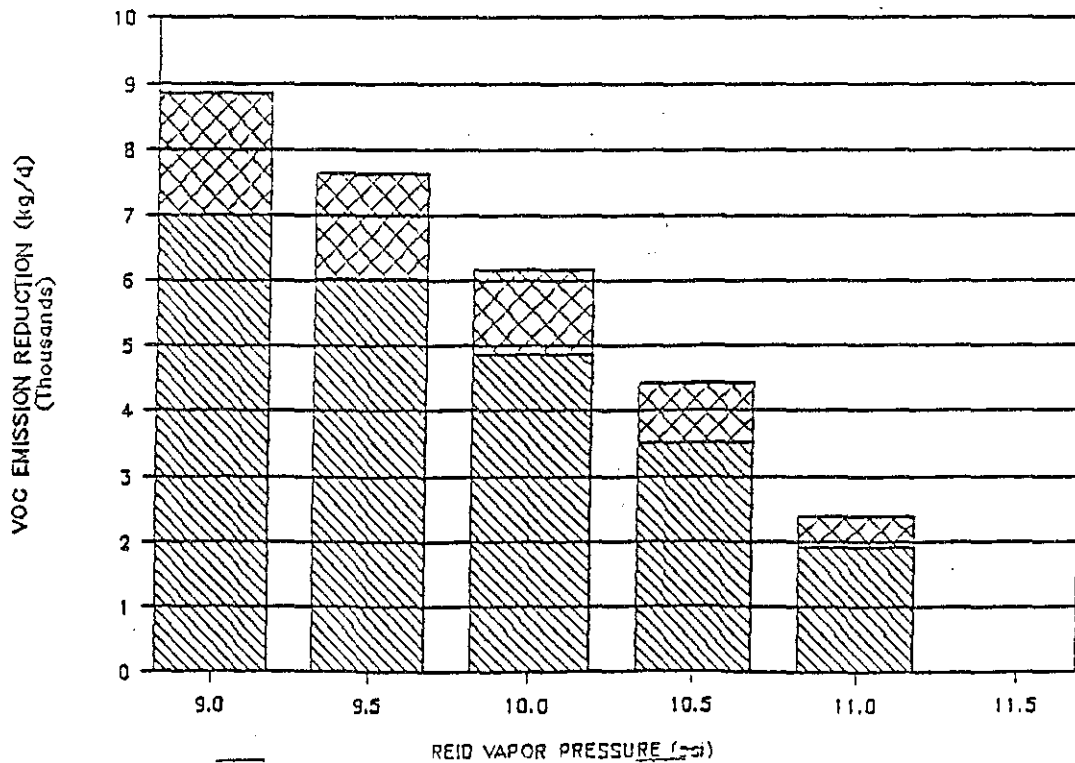


Figure 3  
 PORTLAND VOC REDUCTIONS AT VARIOUS RVPs

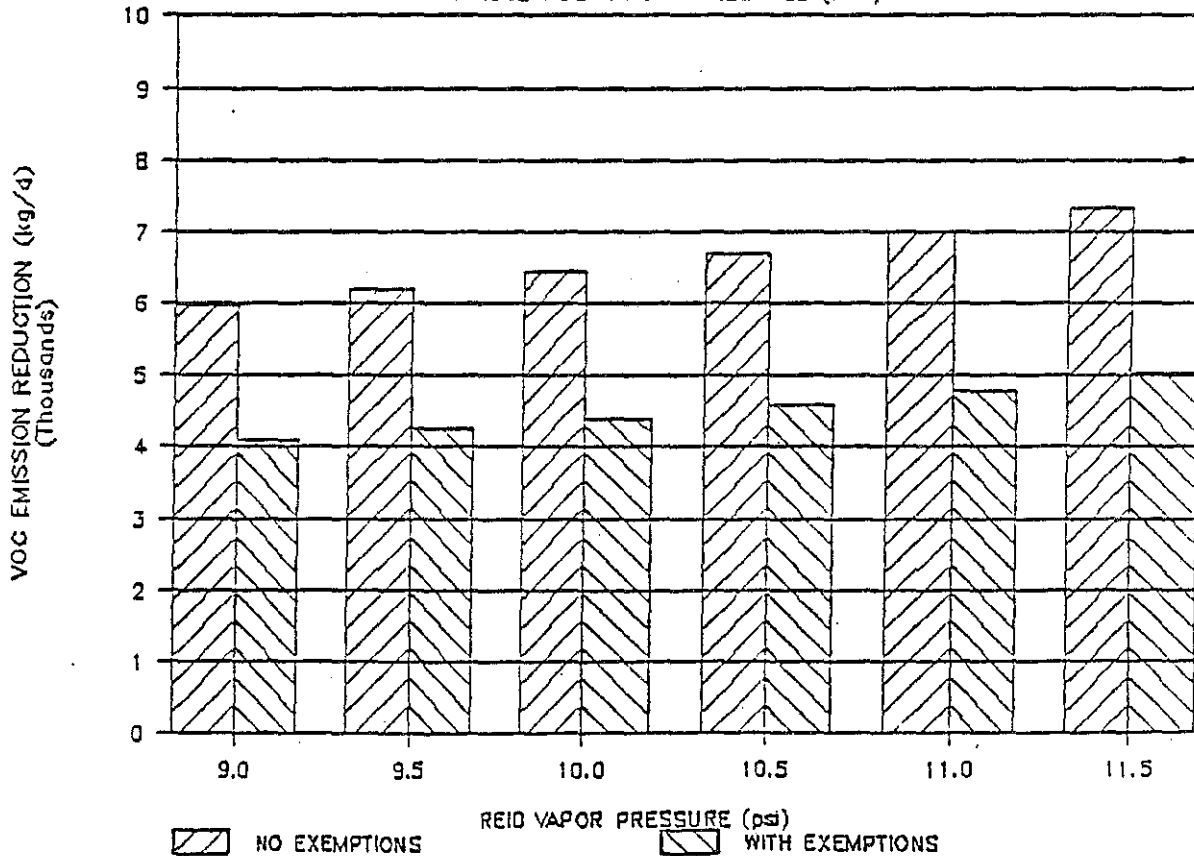


G-50

STAGE II SERVICE STATION CONTROLS

Stage II service station vapor recovery equipment has a maximum potential efficiency of 95% control of refueling emissions. The California in-use efficiency is 80-92% due to some equipment defects.<sup>1</sup> EPA has estimated the Stage II control efficiency at 63-92% depending on the number of exempt smaller service stations.<sup>7</sup> Stage II service station controls would provide a 3-6% reduction (4-7 Mg/d) in overall VOC emissions in the Portland AQMA as outlined in Figure 4.

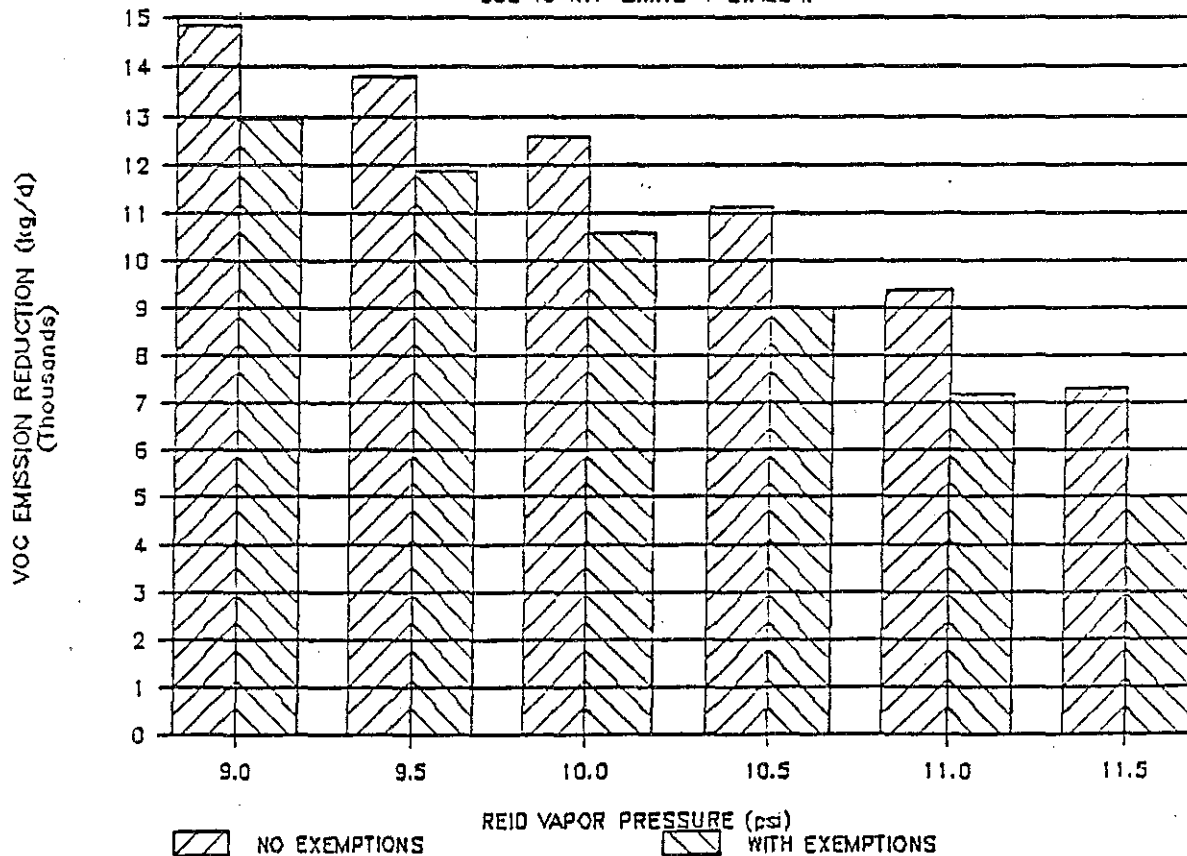
Figure 4  
PORTLAND STAGE II VOC REDUCTIONS  
AT VARIOUS REID VAPOR PRESSURES (RVP)



COMBINATION OF VOLATILITY LIMITS AND STAGE II

Volatility limits could be combined with Stage II service station controls. The combination of a 10.5 psi RVP limit and Stage II would provide a 8-9% reduction (9-11 Mg/d) in overall VOC emissions in the Portland AQMA depending on the number of service station exemptions. The combination of a 9.0 psi RVP limit and Stage II would provide an 11-12% reduction (13-15 Mg/d) in overall VOC emissions in the Portland AQMA depending on the number of service station exemptions. The VOC reductions from these and other combinations are outlined in Figure 5.

Figure 5  
PORTLAND POTENTIAL VOC REDUCTIONS  
DUE TO RVP LIMITS + STAGE II



Memo to: John Kowalczyk, Nick Nikkila  
September 30, 1988  
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### COST-EFFECTIVENESS

A number of cost-effectiveness estimates have been made for various gasoline-related control strategies. Onboard controls would cost \$15 to \$30 per vehicle or \$190 to \$390 per ton of VOC reduction.<sup>7,8</sup> A 1.0 psi reduction in RVP would cost 0.6 to 0.8 cents per gallon or \$320 to \$500 per ton.<sup>8</sup> A 2.5 psi reduction in RVP would cost 1.5 to 2.0 cents per gallon or \$400 to \$600 per ton.<sup>6,8</sup> Stage II service station controls would cost \$620 to \$1940 per ton with station-size exemptions and \$1470 to \$2890 per ton without exemptions.<sup>7,8</sup>

### REFERENCES

1. P.D. Venturini and D.C. Simeroth, "California Perspective on Controlling Evaporative Emissions," Air Pollution Control Association Annual Meeting, Paper 85-37.4, Detroit, Michigan, June 17, 1985.
2. C.L. Dickson and P.W. Woodward, "Motor Gasolines, Summer 1985," National Institute for Petroleum and Energy Research, June 1986.
3. P.B. Bosserman, compilation of 1980-86 summer gasoline volatility data for Portland area gasoline shipments, Oregon Department of Environmental Quality, December 11, 1986.
4. R.F. Stebar et al., "Gasoline Vapor Pressure Reduction - an Option for Cleaner Air," Research Laboratories and Environmental Activities Staff, General Motors Corporation, SAE Paper 852132, International Fuels and Lubricants Meeting, Tulsa, Oklahoma, October 21-24, 1985.
5. P.B. Bosserman, "Changes in VOC Emissions from Changes in RVP," inter-office memorandum, Oregon Department of Environmental Quality, January 21, 1987.
6. S. Majkut, Regulation No. 11.7 and Hearing Officer's decision and response to comments from public hearing, Rhode Island Department of Environmental Management, August 11, 1988.
7. U.S. Environmental Protection Agency, "Evaluation of Air Pollution Regulatory Strategies for Gasoline Marketing Industry," EPA-450/3-84-012a, Office of Air and Radiation, USEPA, Washington D.C., July 1984.
8. C.H. Schleyer and W.J. Koehl, "A Comparison of Vehicle Refueling and Evaporative Emission Control Methods for Long-Term Hydrocarbon Control Progress," SAE Paper 861552, International Fuels and Lubricants Meeting, Philadelphia, Pennsylvania, October 6-9, 1986.

Memo to: John Kowalczyk, Nick Nikkila  
 September 30, 1988  
 Page 7

PERCENT VOC REDUCTIONS DUE TO GASOLINE RVP CHANGES

HIGHWAY VEHICLES			GASOLINE MARKETING	
RVP	PBB	GM	PBB	GM
9.0	16.5	15.0	22.3	20.0
9.5	14.3	12.7	18.2	16.7
10.0	11.5	10.0	13.9	13.0
10.5	8.2	7.0	9.4	9.0
11.0	4.4	3.7	4.8	4.7
11.5	0.0	0.0	0.0	0.0

PORTLAND AREA VOC EMISSIONS (1986, kg/d) AT VARIOUS GASOLINE RVP

HIGHWAY VEHICLES			GASOLINE MARKETING		VEHICLES+MARKETING		OTHER	TOTAL VOC (kg/d)	
RVP	PBB	GM	PBB	GM	PBB	GM		PBB	GM
9.0	46112	46713	9127	9228	55238	55941	54878	110116	110819
9.5	46999	47680	9443	9492	56443	57172	54878	111321	112050
10.0	48179	48336	9800	9800	57979	58636	54878	112857	113514
10.5	49649	50206	10203	10160	59852	60365	54878	114730	115243
11.0	51456	51820	10651	10580	62107	62400	54878	116985	117278
11.5	53720	53720	11162	11074	64882	64794	54878	119760	119672

VOC EMISSION DIFFERENCES (1986, kg/d) AT VARIOUS GASOLINE RVP

HIGHWAY VEHICLES			GASOLINE MARKETING		VEHICLES+MARKETING	
RVP	PBB	GM	PBB	GM	PBB	GM
9.0	7608	7007	2035	1846	9644	8853
9.5	6721	6040	1719	1582	8440	7622
10.0	5541	4884	1362	1274	6903	6158
10.5	4071	3514	959	914	5030	4429
11.0	2264	1900	511	494	2775	2394
11.5	0	0	0	0	0	0

GASOLINE VEHICLE REFUELING				STAGE II REDUCTION		RVP LIMIT+STAGE II	
RVP	1986	STAGE II	STAGE II	NO EXC	W/EXC	NO EXC	W/EXC
9.0	6489	500	2382	5990	4108	14842	12960
9.5	6715	517	2464	6197	4250	13819	11872
10.0	6968	537	2557	6431	4411	12589	10568
10.5	7255	559	2662	6696	4592	11125	9021
11.0	7573	583	2779	6990	4794	9384	7188
11.5	7937	611	2913	7325	5024	7325	5024

6-54

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: January 4, 1989

TO: Nick Nikkila, Ron Householder

FROM: Bill Jasper 

SUBJECT: Update on Fuel Volatility Issues

The following updates my report of September 21, 1987 on the issues associated with EPA's rule making activity of fuel volatility and on board vapor control. The main change in the report is the update on the status of EPA's rule making proposal and the deletion of references to gasoline quality and how that can be regulated. The time frame between EPA's initial proposal and today, and the fact that EPA has not been able to finalize its rule proposal, is in itself a measure of the complexities of reducing emissions from gasoline marketing and vehicle refueling.

Gasoline marketing and vehicle refueling are a sizable impact on the total VOC emissions. In the Portland area for 1985, the Emission Inventory estimated their impact at over 8%. Current vapor control efforts are limited to Stage I vapor recovery and the on board controls built into automobiles and light trucks.

Over the past fifteen years the volatility of motor gasoline has been steadily increasing. Summer grade gasoline used to have Reid Vapor Pressure (RVP) values of 8 to 9 psi. There has been a three to four number increase in RVP, with some samples of motor gasoline as high as 15-18 psi being reported. The increase in RVP has prompted concerns about air pollution control efforts now in place. The following is a summary of some of the activities currently proposed.

EPA NOTICE OF PROPOSED RULE MAKING -- AUGUST 19, 1987

EPA published in the Federal Register of August 19, 1987 notice of proposed rule making (NPRM) that affects fuels and gasoline volatility. The NPRM calls for public hearings sometime in October/November and opens the docket for public comment. Briefly EPA's NPRM does several things.

When implemented, the rules would require 1) that the auto manufacturers increase the ability of the vehicles produced to control evaporative emissions (on board vapor storage). 2) The rules would establish nationwide volatility controls on commercial gasoline and gasoline/alcohol blends (RVP controls). 3) The rules provide for revised sampling techniques that can be used for enforcement purposes (sampling of gasolines at the service station hose outlet) and also provide for changes in the evaporative test procedure (SHED).

EPA is in the process at this date, of re-proposing the NPRM, with the additional safety information. EPA needs to address



Memo to: Nick Nikkila, Ron Householder  
January 4, 1989  
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safety issues raised by the NHTSA (National Highway Traffic Safety Administration) and the re-proposal appears to do this but in the process EPA may delete the suggested limits on RVP. Part of the uncertainty appears due to the changing in administrations in the capitol. Because of the apparent inaction by EPA, it is prudent for the state to consider a parallel action in order to be prepared for the 1989 ozone season.

**Nationwide Status --** Nationwide EPA has 61 non-California cities in non-attainment status for ozone. Modeling indicates that if no additional efforts are made, that there will still be some improvements in the mid-1990's. However by 2010, emission inventories will be worse than in 1988. This would be an indication that the greater Portland area and other areas in the state will have continued ozone attainment concerns well into the next century.

**New Car Vapor Storage --** The EPA is proposing that the certification standard be changed to provide for better on board vapor control. EPA notes in the NPRM that "manufacturers of most gasoline-fueled vehicles would need to make minor improvements in the design of their existing evaporative emission control systems." EPA notes that evaporative emissions from carburetor cars are higher than from fuel injected vehicles. In the support document, EPA stated that vehicle manufacturers need to improve the capacity and purging process at least on some vehicles in order to meet the emission standards in the field. The effect of the EPA NPRM would be to have a new regulation that will require the car makers to build a better or larger system.

**Vapor Pressure Controls --** Currently there are almost 30 states that regulate fuel volatility. Of these states, only California has adopted RVP control regulations for the expressed purpose of air pollution control. EPA notes in their NPRM that the federal preemption applies to states' adoption of RVP control, if EPA promulgates its own RVP controls. EPA believes that its rules will not override state controls that have been adopted for quality control purposes unless EPA's proposals are more stringent. That is because those state rules were adopted for the purposes of quality control. EPA stated that its regulations would not override California rule because the Clean Air Act California exemption.

It is EPA's opinion that when (and if) it adopts regulations affecting RVP, those regulations will override any similar statute or regulation adopted by states for the purposes of air pollution control. California and any state that implements RVP controls for air pollution purposes and uses its SIP process could have more stringent RVP controls.

The gist of the proposed RVP standard, is to incorporate a 9 psi RVP standard for all Class C areas (as defined by ASTM designations) for 1992. Other ASTM Class areas have different values. This 9 psi value was used by many states, but apparently not by Oregon, in its SIP work. Oregon used a 10.5 psi value

Memo to: Nick Nikkila, Ron Householder  
January 4, 1989  
Page 3

during the last SIP update. The NPRM also proposes a 10.5 psi RVP limit between 1989 and 1991. Western Oregon is a Class C area. Eastern Oregon (East of 122° Longitude) is an ASTM Class B area.

The values that are proposed for 1989-1991 for western Oregon are 10.5 psi. In eastern Oregon the fuel would be allowed a 10.5 pound value in May and 9.1 psi for the rest of the summer. In 1992 the values would change to 9.0 psi for western Oregon. In eastern Oregon the values would be 9.0 psi for May and 7.8 psi for the rest of the summer. The fuel limits are shared with Washington (all months) and Idaho and Nevada (all except May).

Alcohol Fuels & RVP -- The proposal lists three options for alcohol blended fuels. All of the options deal with fuels that have received EPA waivers, such as gasohol, MTBE, and the like. Under option 1, EPA would continue the total exemption of alcohol fuels from any RVP limits. Under option 2, there would be a 1 psi allowance. Under option 3, all blends would be required to meet the same levels as conventional motor gasolines. The NPRM states that EPA leans to option 2, but will consider testimony and arguments for either of the other two options.

Gasohol -- Gasohol has not made significant inroads into the gasoline market in Oregon. That market trend appears to be continuing. I base that upon current lack of penetration and a lack of local supply of alcohol for splash blending. Should alcohol and other oxygenated fuels make significant inroads into the northwest, it would appear that they would arrive through the conventional distribution system, ie, pipeline already blended by the refineries in Puget Sound.

Enforcement -- EPA reviewed the enforcement methods currently used by states that have adopted ASTM D 439. California is the only state that has in place an extensive sampling network to assure compliance. Many states have reporting requirements, as in Hawaii where the refiners are required to test and report the RVP and other specified parameters. It appears from the NPRM, that EPA believes that states should institute a rigorous enforcement program to monitor fuel RVP.

Benzene the Carcinogen -- EPA discusses the role of RVP control on benzene exposure. The NPRM indicates that overall benzene exposure will be reduced with improved volatility limits. While it assumed that the refineries will balance the gasoline blending with aromatics in place of butane and other light compounds, the overall exposure to benzene will be reduced. The reasoning advanced indicates that the reduction in exposure will be achieved because of the overall reduction in gasoline volatility.

There is another health benefit that can also be studied when considering control strategies. That would be the benefit to the worker from controlling benzene emissions. Since Oregon prohibits self-serve gasoline, either Stage II or RVP control would be a benefit to the gas station attendant. California has studied benzene as a pollutant and enacted regulations requiring Stage II

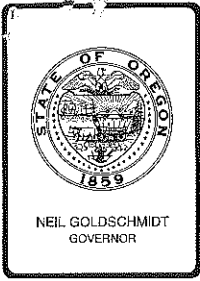
6-57

Memo to: Nick Nikkila, Ron Householder  
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vapor recovery system in all large volume service stations statewide. This was an important step for California, since it had already mandated Stage II systems in its air pollution control areas. It may be prudent for the DEQ to work with the WCB/APD to jointly explore benefits from this area of VOC controls.

Lead and Lead Phase down -- This proposal does not affect the lead phase down that is occurring. EPA does state in its NPRM, that the lead phase down is on schedule. They note that the date for a total ban on leaded gasoline has not been set. EPA does indicate that the results of the proposed RVP actions are not going to be a direct influence on the lead phase down program.

6-58



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: June 2, 1989  
Agenda Item: H  
Division: Air Quality  
Section: Program Planning

#### SUBJECT:

Reconsideration of Proposed Adoption of New Industrial Rules for PM<sub>10</sub> Emission Control within the Klamath Falls Urban Growth Boundary (OAR 340 Division 20) which lowers the Emission Offset Requirement For New or Modified Sources from 15 to 5 Tons Per Year.

#### PURPOSE:

To assure that industrial emission increases in Klamath Falls do not interfere with control strategies designed to attain and maintain compliance with the new federal PM<sub>10</sub> air quality standards.

#### ACTION REQUESTED:

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item  for Current Meeting
  - Other: (specify)
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment A
  - Rulemaking Statements Attachment B
  - Fiscal and Economic Impact Statement Attachment B
  - Public Notice Attachment C
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment
- Approve Department Recommendation
  - Variance Request Attachment
  - Exception to Rule Attachment
  - Informational Report Attachment
  - Other: (specify) Attachment

DESCRIPTION OF REQUESTED ACTION:

The proposed rule would:

1. Reduce the Significant Emission Rate that triggers emission offset requirements from 15 to 5 tons per year.
2. Apply retroactively to all new or modified sources within the Klamath Falls Urban Growth Boundary for which permits have not been issued prior to April 29, 1988 (the date of adoption of Oregon's PM<sub>10</sub> standard and PM<sub>10</sub> New Source Review Rules).
3. Delete the provision contained in the originally proposed rule requiring application of Lowest Achievable Control Technology (LAER) at the 5 ton per year offset level. Retain the LAER requirement at the existing 15 ton per year offset level.
4. Designate the Klamath Falls Urban Growth Boundary as the PM<sub>10</sub> Nonattainment Area.

AUTHORITY/NEED FOR ACTION:

<input type="checkbox"/> Required by Statute: _____	Attachment _____
Enactment Date: _____	
<input checked="" type="checkbox"/> Statutory Authority: <u>ORS 468.020, 468.280</u> <u>468.295 and 468.305</u>	Attachment _____
<input type="checkbox"/> Pursuant to Rule: _____	Attachment _____
<input checked="" type="checkbox"/> Pursuant to Federal Law/Rule: <u>Clean-Air Act</u>	Attachment _____
<input type="checkbox"/> Other: _____	Attachment _____
<input checked="" type="checkbox"/> Time Constraints: _____	

The Environmental Protection Agency, under the provisions of the Clean Air Act, has required the Department to adopt State Implementation Plan (SIP) revisions for the Klamath Falls PM<sub>10</sub> Nonattainment Area. The proposed rule is a key element of the Klamath Falls control strategy. The projected date for Commission authorization of public hearings on the SIP is September, 1989. Timely resolution of the rule is also important to at least one industry with a pending permit application.

DEVELOPMENTAL BACKGROUND:

<input type="checkbox"/> Advisory Committee Report/Recommendation	Attachment _____
<input checked="" type="checkbox"/> Hearing Officer's Report	Attachment <u>D</u>
<input checked="" type="checkbox"/> Response to Testimony/Comments	Attachment <u>E</u>
<input checked="" type="checkbox"/> Prior EQC Agenda Items: April 14, 1989 Item I	Attachment <u>F</u>
<input checked="" type="checkbox"/> EQC Work Session June 1, 1989 Item _____	Attachment <u>G</u>
<input checked="" type="checkbox"/> Other Related Reports/Rules/Statutes:	Attachment <u>H</u>

Meeting Date: June 2, 1989  
Agenda Item: H  
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At the April 14, 1989 Environmental Quality Commission meeting (Agenda Item I), the Commission considered adoption of the proposed Klamath Falls Industrial Offset Rule. The Commission deferred action on the rule, requesting clarification of three issues relating to the use of woodstove emission offsets (Discussion Item 3 at the June 1, 1989 Work Session (Attachment G)); the authority of the Department to use woodstoves as external industrial offsets, the feasibility of obtaining woodstove emission reduction offsets from Klamath Falls woodheating households and the need to define specific criteria for woodstove emission offset credits. The Department has reviewed these issues and believes that there are no statutory, administrative or technical barriers to immediately utilizing woodstove emissions as offsets and to adoption of the revised emission offset program as proposed in the rule.

For reasons described in Attachment E of the April 14, 1989 Commission report, the Department is proposing adoption of the Klamath Falls Urban Growth Boundary (UGB) as the nonattainment area boundary. The Department believes that the UGB best meets the criteria established for nonattainment area boundaries.

**REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:**

Testimony in support of and opposition to the rule is summarized in Attachment F.

**PROGRAM CONSIDERATIONS:**

There will be some impact on the agency's budget associated with oversight of the emission offset program element of the Air Contaminant Discharge Permits. There will be no impacts on other approvals required, or change in relationships with other agencies if the Commission were to adopt this rule. The Department has committed considerable resources in seeking solutions to Klamath Falls' air quality problem. Adoption of the rule represents an important step in the resolution of this problem.

**ALTERNATIVES CONSIDERED BY THE DEPARTMENT:**

In developing the alternatives, two issues were considered:

- (1) Should the rule be applied retroactively to permits which have not been issued prior to April 29, 1988 thereby including Jeld-Wen's permit application?

- (2) Should the rule only apply to sources filing permit applications after the date of rule adoption, thereby exempting Jeld-Wen's permit application from the rule?

The Department believes that industrial emission growth allowed under the current 15 ton offset rule would significantly interfere with efforts to attain air quality standards. It is also the Department's opinion that timely action is needed to assure that emission increases from new and modified industrial sources now being planned are covered by the rule. At present, only one industry has requested a permit modification to increase emissions. A second industry, however, may soon make such a request.

The three options discussed in the April 14, 1989 report to the Commission (Attachment F) discuss each option in detail. They were to (1) retain current requirements for LAER control and offsets on industrial emission growth at 15 tons per year or greater emission increases; (2) retain the current 15 ton per year requirement for LAER but, for new or modified sources greater than 5 but less than 15 tons per year, require either (a) emission offsets or (b) LAER control technology. Do not apply the rule retroactively or (3) retain the current 15 ton per year requirement for LAER but for new or modified sources greater than 5 but less than 15 tons per year require either (a) emission offsets or (b) LAER control technology. The rule would apply retroactively to April 29, 1988.

Following consideration of Commission discussion on April 14, 1989 two options have been developed:

1. Retain the current 15 ton per year requirement for LAER but for new or modified sources greater than 5 tons per year require emission offsets. Apply the rule only to sources filing permit applications after the effective date of rule adoption thereby exempting Jeld-Wen.

The Department believes that this option will significantly decrease the likelihood of attaining the PM<sub>10</sub> air quality standards in Klamath Falls. Current emission reduction estimates are that woodstove and fugitive dust emissions must be reduced by 90% and 60% respectively to attain air quality standards. For each additional 15 ton/year PM<sub>10</sub> source added to the airshed, an additional 1% reduction in woodstove emissions must occur. Given the extreme difficulty in achieving even a 90% reduction in woodsmoke emissions, adding any further reduction requirements greatly increases the difficulty in achieving compliance.

2. Retain the current 15 ton per year requirement for LAER but for new or modified sources greater than 5 tons per year require emission offsets. The rule would apply retroactively to April 29, 1988 thereby including the Jeld-Wen permit application.

This option would help assure the success of planned woodstove and fugitive dust control strategies as well as manage industrial emission growth. Because of the severity of the PM<sub>10</sub> problem in Klamath Falls and the distinct possibility that adding any more new industrial emissions to the airshed will hinder efforts to develop public support for woodstove controls, the Department must recommend that the rule be applied retroactively.

**DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:**

The Department recommends adoption of Alternative 2.

This alternative provides for industrial emission growth management in a cost-effective manner through offsets. External offsets obtained from woodheating emission reductions have been shown to be feasible, quantifiable and enforceable; are within current statutory authority and are approvable by EPA.

**CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:**

The proposed rule is consistent with the Department's proposed strategy for controlling industrial PM<sub>10</sub> emissions in the Medford-Ashland, Grants Pass and Klamath Falls nonattainment areas as part of the State Implementation Plan for attaining and maintaining the National Ambient Air Quality Standards for particulate matter. The Department is not aware of conflicts involving this proposed rule with any agency or legislative policies.

**ISSUES FOR COMMISSION TO RESOLVE:**

1. Are woodstove offsets feasible and, if so, do rules need to be adopted to define specific criteria for an offset program?

The Department believes that woodstove offsets are feasible as described in the Work Session Discussion Item 3.



Meeting Date: June 2, 1989  
Agenda Item: H  
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2. Are woodstove offsets feasible for sources subject to the retroactive portion of the rule and are they feasible for sources that need emission increases immediately?

The Department believes that sources affected retroactively can obtain woodstove offsets within a very short time frame.

INTENDED FOLLOWUP ACTIONS:

- A. File adopted rules with the Secretary of State and incorporate into the Klamath Falls PM<sub>10</sub> Nonattainment Area State Implementation Plan.

Approved:

Section: John F. Kowalczyk by J. Core

Division: Nick Dill

Director: Rydia Taylor

Report Prepared By: John E. Core

Phone: 229-5380

Date Prepared: May 4, 1989

JEC:K  
PLAN\AK1789  
May 4, 1989

Attachment A

PROPOSED RULE REVISIONS

Definitions

OAR 340-20-225(22) Table 1:

Note: \* For the nonattainment portions of the Medford-Ashland Air Quality Maintenance Area and the Klamath Falls Urban Growth Area, the Significant Emission Rates for particulate matter and volatile organic compounds are defined in Table 2.

OAR 340-20-225(22) Table 2:

Significant Emission Rates for the Nonattainment Portions of the Medford-Ashland Air Quality Maintenance Area and the Klamath Falls Urban Growth Area.

Air Contaminant	Emission Rate					
	Annual		Day		Hour	
	Kilograms	(tons)	Kilograms	(lbs)	Kilograms	(lbs)
Particulate Matter** (TSP or PM <sub>10</sub> )	4,500	(5.0)	23	(50.0)	4.6	(10.0)

Note: \*\* For the Klamath Falls Urban Growth Area, the Significant Emission Rates for particulate matter apply to all new or modified sources for which permits have not been issued prior to April 29, 1988; particulate emission increases of 5.0 or more tons per year must be fully offset, but the application of lowest achievable emission rate (LAER) is not required unless the emission increase is 15 or more tons per year. At the option of sources with particulate emissions of 5.0 or more but less than 15 tons per year, LAER control technology may be applied in lieu of offsets.

RULEMAKING STATEMENTS  
FOR  
PROPOSED AMENDMENTS TO  
NEW SOURCE REVIEW RULES  
FOR THE KLAMATH FALLS AREA

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the intended action to amend a rule.

(1) Legal Authority

This proposal amends Oregon Administrative Rules (OAR) Chapter 340, Division 20, Section 225(22), Tables 1 and 2. It is proposed pursuant to the authority of Oregon Revised Statutes (ORS) 468.020, 468.280, 468.295 and 468.305.

(2) Need for these Rules

The U.S. Environmental Protection Agency adopted revisions to the national ambient air quality standards effective July 31, 1988, which replaced the Total Suspended Particulate (TSP) standards with standards for particulate of 10 microns characteristic diameter and under (PM<sub>10</sub>) per cubic meter ( $\mu\text{g}/\text{m}^3$ ).

The states are required to assure attainment and maintenance of EPA's ambient standards. To that end, the states develop strategies for control of appropriate sources of the contaminants which are targeted by the ambient standards. These proposed rule revisions compose a part of the Department's strategy for controlling industrial PM<sub>10</sub> emissions in the Klamath Falls Area.

(3) Principal Documents Relied Upon

OAR 340, Division 20, New Source Review Significant Emission Rates for the Klamath Falls Area.

Informational Report: New Federal Ambient Air Quality Standard for Particulate Matter (PM<sub>10</sub>) and its Effects on Oregon's Air Quality Program. (Presented as Agenda Item D, January 22, 1988 EQC Meeting)

LAND USE CONSISTENCY STATEMENT

The proposed rule changes appear to affect land use as defined in the Department's coordination program with LCDC, but appear to be consistent with the Statewide Planning Goals.

With regard to Goal 6, (air, water, and land resources quality), the proposed changes are designed to enhance and preserve air quality in the State and are considered consistent with the goal. The proposed rule changes do not appear to conflict with the other goals.

Public comment on any land use issue involved is welcome and may be submitted in the same fashion as indicated for other testimony on these rules.

It is requested that local, state, and federal agencies review the proposed action and comment on possible conflicts with their programs affecting land use and with Statewide Planning Goals within their expertise and jurisdiction.

The Department of Environmental Quality intends to ask the Department of Land Conservation and Development to mediate any appropriate conflicts brought to our attention by local, state, or federal authorities.

FISCAL AND ECONOMIC IMPACT STATEMENT

The adoption of the proposed rule would increase the pollution control costs for new or expanded industries within the Klamath Falls Urban Growth Boundary with particulate emission increases of five or more tons per year. The pollution control costs would vary depending on the type of new facility and the type of control technology appropriate for that facility.

Based on recent or proposed pollution control equipment for the wood products industries in the Medford area, the estimated increased capital costs of the proposed Klamath Falls rule change could range from \$5,000 to \$15,000 per ton of annual particulate emissions. The increased operation and maintenance costs could range from \$500 to \$1,000 per ton of particulate collected. The maximum cost impact of the proposed rules for new or expanded sources with potential particulate emissions of 15 or more tons per year could be increased capital costs of \$50,000 to \$150,000 and increase annual operation and maintenance costs of \$5,000 to \$10,000.

*Oregon Department of Environmental Quality*

## **A CHANCE TO COMMENT ON . . .**

**Proposed Amendment to New Source Review Rules for the Klamath Falls Area,  
NOTICE OF PUBLIC HEARING**

Hearing Date: December 15, 1988

Comments Due: December 15, 1988

**WHO IS  
AFFECTED:**

Residents and Industry of Klamath County

**WHAT IS  
PROPOSED:**

The Department of Environmental Quality is proposing to amend OAR 340, Division 20, Significant Emission Rates for new or modified industrial sources in the Klamath Falls Urban Growth Area.

**WHAT ARE THE  
HIGHLIGHTS:**

1. The amendments would reduce from 15 to 5 tons per year the Significant Emission Rate for particulate matter that triggers the need for emissions offsets in the Klamath Falls area.
2. Within the Klamath Falls Urban Growth Area, the amended Significant Emission Rates for particulate matter would apply to all new or modified sources for which permits have not been issued prior to April 29, 1988.

**HOW TO  
COMMENT:**

Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland (811 S.W. Sixth Avenue) or from the regional office nearest you. For further information, contact Sarah Armitage at (503) 229-5581.

A public hearing is scheduled for December 15, 1988, at 7:00 p.m. in the Commissioner's Hearing Room, Klamath County Courthouse Annex, 305 Main Street, Klamath Falls.

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ, but must be received by no later than December 15, 1988.

**WHAT IS THE  
NEXT STEP:**

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. If amendments are adopted they would be submitted to the U. S. Environmental Protection Agency as revisions to the Clean Air Act State Implementation Plan. The Commission's deliberation would come during a regularly scheduled meeting after the public hearing.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

AK1118 (11/88)



811 S.W. 6th Avenue  
Portland, OR 97204

11/1/88

**FOR FURTHER INFORMATION:**

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

ATTACHMENT C

Oregon Department of Environmental Quality

# A CHANCE TO COMMENT ON...

NOTICE OF PUBLIC HEARING OAR 340-22-300

Hearing Date: April 17 and 19, 1989  
Comments Due: April 21, 1989

IS  
CTED: Refiners and distributors of gasoline are directly affected, and will need to modify the blends of gasoline sold during the summer months. Motorists and other users of gasoline will be indirectly affected by this proposal, because the refiner's costs will be passed through to the ultimate user. The price of gas could increase 1¢ per gallon.

IS  
SED: The Department of Environmental Quality is proposing to adopt OAR 340-22-300 to establish a standard for automotive gasoline. The proposal would establish a maximum Reid Vapor Pressure for automotive gasoline of 10.5 psi during the period of May 15 through September 15. Because of the way gasoline is marketed, this would apply to all Oregon, west of 122° longitude (west of the Cascades). The effective date for 1989 would be June 15, 1989. Sampling procedures and civil penalty authority is included.

ARE THE  
ILIGITS: During the past 15 years, the volatility of gasoline, as measured by a test called Reid Vapor Pressure, has been increasing. Gasoline vapors from marketing and on vehicle evaporative losses are significant contributors to concentrations of ground level ozone in the Portland area. Reducing the volatility of gasoline to previously manufactured levels can be of significant benefit in state efforts to meet the federal ozone health standard.

A maximum Reid Vapor Pressure of 10.5 psi would be established. Refiners and distributors of automotive gasoline would need to supply and sell the reduced volatility gasoline during the summer months. This is estimated to provide a 5000 kg/day VOC emission reduction, and help insure compliance with the ozone standard.

Why would it cost more? The refinery cost increases, due to gasoline reformulation, would be expected to be passed through to gasoline users. Studies at the national level have indicated that this could result in about a 1¢ per gallon price increase. Some petroleum industry sources have indicated that the cost may be higher.

HOW TO  
COMMENT:

Copies of the complete proposed rule package may be obtained from the Air Quality Division in Portland 811 S.W. Sixth Avenue or the regional office nearest you. For further information contact Bill Jasper at (503) 229-5081.

Public hearings will be held before a hearings officer at:

10:00 a.m.	7:00 p.m.
April 17, 1989	April 19, 1989
Portland Building Auditorium	Portland Building Auditorium
1120 SW Fifth	1120 SW Fifth
Portland, Oregon	Portland, Oregon

Oral and written comments will be accepted at the public hearing. Written comments may be sent to the DEQ, but must be received by no later than April 21, 1989.

WHAT IS THE  
NEXT STEP:

After public hearing the Environmental Quality Commission may adopt rule amendments identical to the proposed amendments, adopt modified rule amendments on the same subject matter, or decline to act. The adopted rules will be submitted to the U. S. Environmental Protection Agency as part of the State Clean Air Act Implementation Plan. The Commission's deliberation should come in June 2, 1989, as part of the agenda of a regularly scheduled Commission meeting.

A Statement of Need, Fiscal and Economic Impact Statement, and Land Use Consistency Statement are attached to this notice.

AK1354 (2/89)

C-2

C-1



FOR FURTHER INFORMATION:

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

811 S.W. 6th Avenue  
Portland, OR 97204

Attachment C

STATE OF OREGONDEPARTMENT OF ENVIRONMENTAL QUALITYINTEROFFICE MEMORANDUM

DATE: March 10, 1989

TO: Environmental Quality Commission

FROM: Hearing Officer

SUBJECT: Hearing Report for Proposed Amendments to the New Source Review Rules for the Klamath Falls Area Held February 15, 1989.

Summary of Procedure

As announced in the public notice, a public hearing was held on Wednesday, February 15, 1988 at the Klamath County Courthouse Annex Commissioner's Hearing Room. The purpose of the hearing was to receive testimony on proposed amendments to the Department's New Source Review Rules (OAR 340-20-225(22), Tables 1 and 2 which define particulate matter (PM<sub>10</sub>) significant emission rates for industrial sources in Klamath Falls. John Core of the Department's Air Quality Division served as hearings officer. Public notice appeared in the Klamath Falls Herald & News newspaper on November 8, 1988 announcing scheduling of the hearing on December 15, 1988. However because of requests from the Klamath County Board of Commissioners and the City of Klamath Falls, the hearing was rescheduled for February 15, 1989 to provide additional time for development of testimony.

The hearing lasted 2 hours from 7 PM to 9 PM. Oral and written testimony was presented by 18 persons. Additional written testimony was received by mail from 9 other persons. The attachment lists the name, affiliation, form of testimony, and position (in favor of or opposed to the rule).

Summary of Testimony

Testimony received on the proposed rule amendments can be categorized into two groups; those in favor of the rule amendments and those opposed:

Summary of Testimony in Favor of Rule Adoption

Eight members of the public testified in favor of rule adoption citing the need to reduce particulate emissions. Doss Decker, Lewis Furber, Joseph Fisher, Nancy Roeder and Dorothy Chiero testified that particulate emissions from industry need to be reduced and that industry can well afford to better control

Memo to: Environmental Quality Commission  
March 10, 1989  
Page 2

emissions. They also commented on several issues related to residential woodstoves, the need to develop economic incentives to promote the use of fuel other than wood for space heating and concerns about particle fallout from industrial facilities. Mavis McCormic of Keno, Oregon provided written testimony in favor of the rule citing the need for tighter emission control to attain national ambient air quality standards.

Testimony from the US Environmental Protection Agency, American Lung Association, the Oregon Environmental Council and the League of Women Voters all supported the rule citing the need for consistent treatment of industrial sources in PM<sub>10</sub> Group 1 nonattainment areas; the need for equity in reducing emissions from all sources within the nonattainment area; the unhealthful nature of air quality in Klamath Falls and efforts that industries in the Medford-Grants Pass airsheds have made to reduce emissions. The Oregon Environmental Council comments stressed the need for a stricter offset program to allow economic development while improving air quality and the equity in adopting the same 5-ton emission offset rule as applies in Medford.

#### Testimony in Opposition to Rule Adoption

Fifteen persons spoke in opposition to rule adoption including 4 members of the public, representatives from the Klamath County Board of Commissioners, the City of Klamath Falls, the Klamath County Health Department, Klamath County Chamber of Commerce, the Wood Heating Alliance, Klamath Consulting Co., Weyerhaeuser Corporation, Modoc Lumber Co., Columbia Plywood Co. and Jeld-Wen.

Testimony of all of those in opposition noted the unique nature of the air quality problem in Klamath Falls and the need for tailor-made solutions for the Klamath Basin rather than adoption of uniform industrial regulations across Southern Oregon and the ineffectiveness of the proposed rule in solving the problem. Much testimony was given on issues related to residential woodsmoke control, the need of local residents to use woodheating and the need to develop local, cooperative solutions rather than mandatory regulations imposed by the Department or the Environmental Protection Agency. Many of those testifying questioned Department information on the magnitude of the PM<sub>10</sub> problem in Klamath Falls, the sources contributing to the problem and whether proposed solutions are appropriate. The Klamath County Chamber of Commerce, Columbia Plywood and the Klamath County Air Quality Management Plan question the logic of adopting the Urban Growth Boundary as the nonattainment boundary.

The principal points of testimony presented by those opposed to the rule are outlined below:

Industrial Emission Impacts are Minor

Those opposed to the rule cite Department data that industrial contributions to the PM<sub>10</sub> problem are very small and that most of the year air quality in Klamath Falls is good. Those opposed argue that even if industrial emissions were totally eliminated, little if any, air quality benefits would be seen. Many believe that industrial emission impacts are less than that estimated by the Department because the buoyancy of boiler plumes will be above the Basin's very shallow inversions. Stanley Meyers of Jeld-Wen estimates that the reduction in the emission offset from 15 to 5 tons would result in only a 0.2 to 0.3 % improvement in air quality at a substantial cost to industry.

Department Estimates of Economic Impact are Incorrect

Testimony provided by all of those opposed to the rule cite the inadequacy of the Department's economic analysis of the impact of the rule on the industries as well as the community. Weyerhaeuser Corp., Columbia Plywood Co, Klamath County Chamber of Commerce. feel that the capital investment costs required to meet the 5 ton offset limit would be nearly five times that estimated by the Department. Jeld-Wen estimates that the capital cost of their boiler plant expansion will be from \$350,000 to \$500,000 with annual operating costs of \$40,000 to \$50,000. These costs are several times that estimated by the Department. The Klamath County Chamber of Commerce, the Board of Commissioners and others expressed concern regarding the impact of the proposed rule on the economic development of the Klamath Basin, the potential loss of jobs, related taxes, lost property taxes and multiplier impacts on retail, tourism and service industries.

Availability of Offset Emissions

Stanley Meyers of Jeld-Wen provided written testimony expressing concern that the emission offsets needed for industry to comply with the rule may not exist. Those emissions that are now available as offsets are likely to be used up quickly, leaving smaller industries with no options to accommodate growth. Offsets will not be able to be purchased from others because of the lack of industry in the airshed. As a result, a 5 ton offset rule will limit expansion of new and existing industry to an unreasonable and unnecessary extent.



Development of Local Solutions to the Problem

Commissioner Lindow representing the Klamath County Board of Commissioners, Stanley Meyers of Jeld-Wen, Kurt Schmidt of Modoc Lumber, Jim Keller of City of Klamath Falls, Greg Williams of the Chamber of Commerce, John Monfore of Weyerhaeuser, Drew Honzel of Columbia Plywood and others supported adoption of local solutions to the Klamath Basin's PM<sub>10</sub> air quality problem. All testified that local governments and industries need time to develop an effective plan without Department imposed regulation. A copy of a draft plan (Klamath County Air Quality Management Plan) was submitted into the hearing record by Commissioner Lindow as a suggested alternative to offset rule adoption. The Plan outlines a number of concerns regarding the nature of magnitude of the Basin's PM<sub>10</sub> problem, provides a broad outline of potential industry and woodstove measures that may be helpful in improving air quality and describes a range of public education programs that may be helpful in reducing residential woodsmoke emissions. The Plan contains no specific governmental or industry endorsements nor does it provide commitments for emission reductions.

The Urban Growth Boundary Does Not Describe the Nonattainment Area

The Klamath County Air Quality Management Plan, the Klamath County Chamber of Commerce, Columbia Plywood and testimony from Bob Shaw (Public) questioned the Department's rationale in selecting the Urban Growth Boundary as the legal definition of the nonattainment area. They testified that the problem area is not as large as the UGB and that adoption of the Boundary would be unnecessarily restrictive.

The Proposed Rule Should Not Be Retroactive

Stanley Meyers (Jeld-Wen) testified that by applying the proposed rule retroactively, Jeld-Wen will incur major additional costs that were not foreseen at the time of permit submittal. The moving of the "goal posts" proposed by the retroactive element of the rule has caused Jeld-Wen expensive project delays. The retroactive element of the rule should be deleted. Kurt Schmidt (Modoc Lumber) also supported deletion of the retroactive element of the rule.

Other Issues

Kurt Schmidt (Modoc Lumber) and Stanley Meyers (Jeld-Wen) testified that reducing the offset from 15 to 5 tons would discourage industrial expansions that generate the tax dollars needed to implement other control strategies (County public

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education programs, street sweepers, etc). Joan Riker (Klamath Consulting) and Drew Honzel (Columbia Plywood) questioned the need for the rule given the minor impact of industry in the airshed. John Crouch of the Wood Heating Alliance testified that the proposed rule would be ineffective and would undercut the communities cooperative effort to reduce woodstove emissions.

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Attachment

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Klamath Falls Industrial Rule Hearing

NO.	NAME	AFFILIATION	ORAL	WRITTEN	POSITION
1	BILL ROBSON	PUBLIC	X	X	O
2	NANCY ROWLOTTAM	PUBLIC		X	F
3	STANLEY MEYERS	JELD-WEN	X	X	O
4	HAROLD NORTH	PUBLIC		X	F
5	PERRY RICKARD	KLAMATH CTY HEALTH		X	O
6	ANDREW GIGLER	PUBLIC	X	X	F
7	LEWIS FURBER	PUBLIC	X	X	F
8	KURT SCHMIDT	MODOR LUMBER CO.	X	X	O
9	GREG WILLIAMS	KLAMATH CTY C OF C	X	X	O
10	TED LINDOW	KLAMATH CTY COMMISS.	X	X	O
11	DREW HONZEL	COLUMBIA PLYWOOD CO.	X	X	O
12	JOHN MONFORE	WEYERHAUSER	X	X	O
13	SHARON LITTLE	LEAGUE WOMEN VOTERS		X	F
14	MARVIS McCORMIC	PUBLIC		X	F
15	JAMES KELLER	CITY, KLAMATH FALLS	X	X	O
16	JOHN CROUCH	WOOD HEAT ALLIANCE	X	X	O
17	JOAN RIKER	KLAMATH CONSULTING		X	O
18	JOE WELLER	AM. LUNG ASSN OF OR.		X	F
19	JOHN CHARLES	OR. ENV. COUNCIL		X	F
20	DAVID KIRCHER	US EPA REGION X		X	F
21	NANCY ROEDER	PUBLIC	X		F
22	ROBERT SHAW	PUBLIC	X		O
23	JIM KIMBIER	PUBLIC	X		O
24	DOSS DECKER	PUBLIC	X		F
25	JOSEPH FISHER	PUBLIC	X		O
26	DAN BROWN	DOUBLE DEE LUMBER	X		O
27	DOROTHY CHIERO	PUBLIC	X		F

Note: O means Opposed to Rule Adoption  
 F means Favors Rule Adoption

JEC/jec  
 John Core (229-5380)  
 (March 16, 1989)

**RESPONSE TO TESTIMONY RECEIVED AT THE KLAMATH FALLS  
PUBLIC HEARING ON PROPOSED CHANGES TO INDUSTRIAL RULES**

**ISSUE NO. 1:** Industry emissions and impacts are a small percentage of the PM<sub>10</sub> problem. Rule adoption would result in little air quality improvement.

**RESPONSE:** Presently industrial PM<sub>10</sub> emissions represent 4% and residential woodheating emissions represent 83% of the worst winter day Klamath Falls Urban Growth Boundary (UGB) air emissions. However, when the needed 85-90% reduction in woodheating emissions is achieved in order to attain compliance with the Federal daily PM<sub>10</sub> standard of 150 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), currently permitted industrial emissions will represent a very significant 20% of the UGB emissions. For every 15 tons/year increase in PM<sub>10</sub> that would be allowed for new or expanded industry under current rules without offsets an increase in industrial daily impacts of at least one microgram per cubic meter would be expected. Such an impact is classified by Department rules as a significant air quality impact and clearly such impacts could interfere with attaining and maintaining compliance with PM<sub>10</sub> air quality standards. In fact if only a few new or expanded industries were granted 15 tons/year PM<sub>10</sub> emission increases without offsets it could make attainment impossible because further control of woodheating or dust sources would be impractical to achieve. A remaining but still limited alternative would be to roll back all existing industrial source emissions through an areawide rule change that would require higher levels of emission control. Generally spreading the cost to locate a new industry or expand an existing one to all existing industry would not be considered an equitable requirement.

**ISSUE NO. 2:** The economic effects on industry and the community are significantly underestimated.

**RESPONSE:** The cost estimates identified by the Department were based on typical costs incurred by new facilities in order to provide the lowest achievable emission rate (LAER) and reduce particulate emissions by 10 tons per year (the difference between the current 15 tons per year emission rate that triggers LAER and offset requirements and the proposed 5 tons per year rate). These costs typically range from \$5,000 to \$15,000 per annual ton reduction, or \$50,000 to \$150,000 per annual 10 ton reduction.

For example, Medford Corporation in Medford estimated the cost of pollution control equipment at \$3,288,000 to meet LAER (equivalent to 0.015 grains per standard cubic foot) in its proposed new wood-fired power plant. This LAER pollution control equipment will reduce particulate emissions by about 654.5 annual tons compared

to a power plant of the same size just meeting the statewide standard for new boilers of 0.1 grains per standard cubic foot (115.5 annual tons versus 770 annual tons). This represents a cost of \$5,024 per annual ton reduction in order to meet LAER which is at the lower end of the \$5,000 to \$15,000 range identified by the Department.

The proposed Medford Corporation facility represents a very large power plant producing 480,000 pounds per hour of steam; as such, the cost per ton of emission control is lower than would otherwise be expected due to the economy of scale.

A more typical size new power plant would be one producing 50,000 pounds per hour of steam. JELD-WEN, an industry in the Klamath Falls area, estimated the cost of LAER pollution control equipment for this size of power plant at \$350,000 to \$500,000; the equipment vendor contacted by the Department estimated the total installed cost to be \$600,000 to \$800,000. The LAER pollution control equipment would reduce particulate emissions from 75 annual tons (at the 0.1 grains per standard cubic foot statewide limit) down to about 11 annual tons for a net reduction of 64 annual tons. This represents a cost of \$5,469 to \$7,813 per annual ton reduction (using the JELD-WEN estimates) or \$9,375 to \$12,500 per annual ton reduction (using the equipment vendor estimates); these costs per ton are all within the \$5,000 to \$15,000 range identified by the Department.

The discrepancy in the Department and industry cost estimates results from a specific case in which LAER would not be required under the current 15 annual ton LAER/offset criteria, but would be required under the 5 annual ton criteria, and the application of LAER results in greater than a 10 annual ton reduction. In this specific case involving JELD-WEN, internal offsets were available within the plant to reduce the net emission increase to less than 15 annual tons but not less than 5 annual tons. The application of LAER pollution control equipment would reduce particulate emissions by considerably more than needed to reduce the net increase to less than 5 annual tons. Thus the cost anticipated by JELD-WEN due to the proposed change in the LAER/offset criteria was the total cost of providing LAER (\$350,000 to \$500,000) so the 10 annual ton change in the LAER/offset criteria appears to represent \$35,000 to \$50,000 per annual ton.

This JELD-WEN example probably represents the worst case, or at least represents cases more typical of the smaller industries located in the Klamath Falls UGB.

A possible alternative to the 5 annual ton LAER/offset criteria, that would reduce the costs of cases like the JELD-WEN example and be more cost-effective, would be to keep the current 15 annual ton LAER criteria but require offsets at 5 or more annual tons. This would not require LAER for emission increases in the 5 to 15

annual ton range if external offsets (from residential woodstoves or other industries) were available to fully offset the increase.

**ISSUE NO. 3:** Available emission offsets are so few that the rule would prohibit industrial growth.

**RESPONSE:** About 150 to 300 tons per year of PM<sub>10</sub> emissions are available as potential offsets in the Klamath Falls area. This could accomodate 10 to 20 new or expanded industries with emissions of 15 tons per year.

The difference between actual 1986 PM<sub>10</sub> emissions and the PM<sub>10</sub>-equivalent PSEs indicates that 47 tons per year are available for expansion of existing industries (or available for emission trading to new sources locating in the area). An additional 100 tons per year could be obtained by reducing existing emissions to the levels proposed in the Medford area. The proposed Medford wood-fired boilers limits are 0.03 grains per standard cubic foot compared to the existing Klamath Falls limits of 0.1-0.2 grains per standard cubic foot (70-85% lower). The proposed Medford veneer drier limits for Douglas fir veneer are 0.30-0.45 pounds per thousand square feet of veneer (3/8" basis) compared to the existing Klamath Falls limits of 0.52-1.5 pounds per thousand (42-70% lower).

It may be possible to also obtain emission offsets from the reduction of residential woodburning emissions.

The 1987 Klamath Falls woodheating survey indicated that the average fireplace household burned 2.6 cords per year and the average woodstove (or fireplace insert) household burned 4.2 cords per year. The average household burning wood as the main heat source burned 4.7 cords per year and the average household with wood as the sole source of heat burned 5.1 cords per year.

The woodstove particulate emission factor reported in the AP-42 Emission Factor Manual of the U.S. Environmental Protection Agency (EPA) is 21 grams per kilogram of wood burned (or 42 pounds per ton). About 95% of residential woodsmoke emissions are in the PM<sub>10</sub> size range. The average cord of firewood is estimated to weigh 3500 pounds. This results in a woodstove emission factor of about 70 pounds per cord (or 0.035 tons per cord).

The Housing Authority of Jackson County is implementing a program to replace existing woodstoves in low-income households with more efficient and cleaner burning units. The funding is from Community Development Block Grants and other sources. Replacement of a woodstove with a natural gas heater provides a 99.8% reduction in emissions at a cost of about \$2,000 per home; replacement with a pellet unit provides about a 90% reduction.

Replacement of woodstoves with gas heaters in the Klamath Falls area would reduce emissions by 294 pounds per year per household (average woodstove household) to 329 pounds per year (household using wood as main heat source) to 357 pounds per year (household with wood as sole heat source). Replacement with pellet units would reduce emissions by 90% of these amounts.

To offset 15 annual tons of PM<sub>10</sub> emissions, about 84 sole source woodstove households would need to be converted to gas heat. In order to not interfere with the effectiveness of the woodstove curtailment program, the homes targeted for conversion to gas should be those in the severe problem area who would have the most difficulty complying with the curtailment program or even be exempt from curtailment: Low-income households with wood as the sole source of heat. At \$2,000 per home, this would cost a total of about \$168,000, or \$11,200 per annual ton of PM<sub>10</sub> emission reduction. This is within the \$5,000 to \$15,000 per annual ton initial cost estimate, but slightly above the initial total cost estimate range of \$50,000 to \$150,000 since an external offset such as this would require that the entire 15 annual ton increase be offset, not just the 10 annual ton difference between the current and proposed LAER/offset criteria.

The emission reduction would provide a net air quality benefit (as required by Department rules) in correcting the PM<sub>10</sub> health problem since the reduction would be achieved in the problem area during the problem time of year.

The use of woodstoves as offsets must be carefully limited to insure that enough woodheating emission reductions will be achieved to reach attainment of the PM-10 air quality standard. At least an 85-90% reduction in woodheating emissions will be needed to attain standards. About 4% of the woodburning households are sole-source woodheated and likely a large portion of these would be exempted from curtailment. About half of this category (representing about 25 tons per year of PM<sub>10</sub>) has lower incomes (less than \$20,000 household income) and would be a potential offset category. If a net air quality benefit can be shown (depending upon specific location of the new industrial emissions and compliance rate of the curtailment program) another 13% of the woodburning households representing lower income (less than \$20,000 household income) main-source woodheating homes might be eligible for use as offsets. This would represent an additional 150 or more tons per year of offsets.

**ISSUE NO. 4:** Local voluntary solutions to industrial emission growth management are needed rather than Department imposed rules.

**RESPONSE:** The success of any pollution control plan relies heavily on the cooperation of the residents and industries of a community. It is imperative, however, that the pollution control

plan is adequate to insure that health standards are met in a timely manner. The State Implementation Plan for PM<sub>10</sub> must contain effective and enforceable measures to address growth in industrial emissions. The emission offset requirements provide considerable flexibility for managing emissions and allowing economic development without interfering with progress toward meeting health standards.

ISSUE NO. 5: The Urban Growth Boundary should not be adopted as the nonattainment area.

RESPONSE: Designation of the boundary of the nonattainment area within which control strategies will be applied requires consideration of several issues:

1. The nonattainment boundary must include the geographical area within which national ambient air quality standards are currently being exceeded. Air Sampling studies completed in November, 1985, March, 1988 and January, 1989 have consistently show that minor day-to-day variations in the pattern of PM<sub>10</sub> levels exist depending on wind direction and the time of day of the survey. All surveys indicate a consistent pattern of maximum concentrations near Peterson School extending outward toward the downtown district, south toward Kingsley Field and westerly toward Green Springs Junction. The PM<sub>10</sub> levels appear to follow local topography with concentrations decreasing with increases in elevation. They also appear to follow the emission density of homes (woodstoves) in the area.

2. The nonattainment boundary must include the area within which air standards may be exceeded in the future. EPA requires that SIP control strategies consider future population, transportation, housing and industrial growth to assure that air standards will be attained and maintained. Development of a strategy to assure maintenance of air standards therefore requires that the nonattainment area boundary must be consistent with the regional planning boundary for which community growth projections are available.

3. The nonattainment area must be a legally defined boundary recognized by local governments. Legal definition is required for rulemaking purposes. Additionally, some component of the control strategy may need to be implemented through county land use planning ordinances tied to the Urban Growth Boundary.

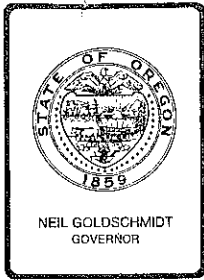
Adoption of the Urban Growth Boundary as the nonattainment area is the only legally defined boundary that meets all of the above criteria.



ISSUE NO 6: The Rule Should Not Be Retroactive.

RESPONSE: The Department is concerned that PM<sub>10</sub> emission increases from expanding industrial sources that have already filed permit applications (Jeld-Wen) will significantly interfere with efforts to attain and maintain compliance with air quality standards. The addition of 15 tons per year of industrial emissions from Jeld-Wen would result in about a 1  $\mu\text{g}/\text{m}^3$  airshed impact on worst-case winter days in 1992 if emission offsets are not required. Additional impacts from other expanding and/or new industries would further complicate air quality standard attainment. Because of the extremely high degree of emission reduction needed to bring the Klamath Falls airshed into compliance with air quality standards, any increase in emissions must be highly controlled and/or totally offset to attain standards. The Department is also concerned about the inequity of seeking public cooperation in extensive control of emissions from woodheating households while permitting major expansions in industrial emissions.

MLH:mlh  
John Core (229-5380)  
Merlyn Hough (229-6446)  
(3/24/89)



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: April 14, 1989  
 Agenda Item: I  
 Division: Air Quality  
 Section: Program Planning

#### SUBJECT:

Proposed Adoption of New Industrial Rules for PM<sub>10</sub> Emission Control within the Klamath Falls Urban Growth Boundary (OAR 340 Division 20) which lowers the Emission Offset Requirement For New or Modified Sources from 15 to 5 Tons Per Year.

#### PURPOSE:

To assure that industrial emission increases in Klamath Falls do not interfere with control strategies designed to attain and maintain compliance with the new federal PM<sub>10</sub> air quality standards.

#### ACTION REQUESTED:

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item \_\_\_ for Current Meeting
  - Other: (specify)
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment A
  - Rulemaking Statements Attachment B
  - Fiscal and Economic Impact Statement Attachment B
  - Public Notice Attachment C
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment \_\_\_
- Approve Department Recommendation
  - Variance Request Attachment \_\_\_
  - Exception to Rule Attachment \_\_\_
  - Informational Report Attachment \_\_\_
  - Other: (specify) Attachment \_\_\_

#### DESCRIPTION OF REQUESTED ACTION:

Meeting Date: April 14, 1989  
Agenda Item:  
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DESCRIPTION OF REQUESTED ACTION:

The proposed rule would:

Reduce the Significant Emission Rate that triggers emission offset requirements from 15 to 5 tons per year.

Apply retroactively to all new or modified sources within the Klamath Falls Urban Growth Boundary for which permits have not been issued prior to April 29, 1988.

Delete the provision contained in the originally proposed rule requiring application of Lowest Achievable Control Technology (LAER) at the 5 ton per year offset level. Retain the LAER requirement at the existing 15 ton per year offset level.

Designate the Klamath Falls Urban Growth Boundary as the PM<sub>10</sub> Nonattainment Area.

AUTHORITY/NEED FOR ACTION:

<input type="checkbox"/> Required by Statute: _____	Attachment _____
Enactment Date: _____	
<input type="checkbox"/> Statutory Authority: _____	Attachment _____
<input type="checkbox"/> Pursuant to Rule: _____	Attachment _____
<input type="checkbox"/> Pursuant to Federal Law/Rule: _____	Attachment _____
<input checked="" type="checkbox"/> Other: Rule Amendment (OAR 340 Division 20)	Attachment <u>A</u>

Time Constraints: The Environmental Protection Agency, under the provisions of the Clean Air Act, has required the Department to adopt State Implementation Plan (SIP) revisions for the Klamath Falls PM<sub>10</sub> Nonattainment Area. The proposed rule is a key element of the Klamath Falls control strategy. The projected date for Commission authorization of public hearings on the SIP is July, 1989. Timely resolution of the rule is also important to at least one industry with a pending permit application.

DEVELOPMENTAL BACKGROUND:

<input type="checkbox"/> Advisory Committee Report/Recommendation	Attachment _____
<input checked="" type="checkbox"/> Hearing Officer's Report	Attachment <u>D</u>
<input checked="" type="checkbox"/> Response to Testimony/Comments	Attachment <u>E</u>
<input type="checkbox"/> Prior EQC Agenda Items: (list)	Attachment _____
<input type="checkbox"/> Other Related Reports/Rules/Statutes:	Attachment _____
<input type="checkbox"/> Supplemental Background Information	Attachment _____

Meeting Date: April 14, 1989  
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Klamath Falls has a serious PM<sub>10</sub> air quality problem. Reductions of as much as 90% and 60 %, respectively, are needed in woodsmoke and fugitive dust emissions to attain federal 24-hour air quality standards. Additional reductions may be needed to achieve the annual standard. Because of the difficulty in achieving such high levels of control, every reasonable emission reduction strategy may need to be set in place to achieve healthful air quality. As the control strategies reduce woodsmoke and dust emissions to meet the PM<sub>10</sub> air quality standard, industrial contributions will increase from 4 to 20 % of worst-case day PM<sub>10</sub> levels. Addition of 15 tons per year of industrial emissions from a number of new or modified source would result in about a 1 µg/m<sup>3</sup> airshed impact for each industry if emission offsets are not required. These additional impacts will significantly interfere with efforts to attain and maintain compliance with PM<sub>10</sub> air quality standards. Rule adoption is being requested now to resolve the issue for industries with pending permits and for new sources considering locating in the airshed.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

Testimony in support of the rule emphasized the need for restrictions on industrial emission increases within an airshed that exceeds the national health standard for PM<sub>10</sub> by a factor of four. Others cited the need for equitable reductions in industrial as well as residential wood heating emissions and the need for consistent offset requirements for sources in Klamath Falls and Medford.

Those opposed cited the high cost to industry relative to air quality benefits and impacts on local economic development.

A summary of key points of controversy follows. The comments and Department's detailed response are contained in Appendix E.

1. Industry emissions and impacts are a small percentage of the PM<sub>10</sub> problem. Rule adoption would result in little air quality improvement.

The Department believes that industrial emission will be a significant portion of the airshed emissions when woodstove emissions are reduced and that significant growth in industrial emissions may jeopardize efforts to achieve and maintain healthful air quality (Page E-1).

2. The economic impacts on industry and the community are significantly underestimated.

The Department's estimated costs to obtain offsetting emissions are accurate and offsets are cost-effective but further analysis convinces the Department that LAER controls are not cost-effective (Page E-1).

3. Available emission offsets are so few that the rule would prohibit industrial growth.

The Department estimates that sufficient offsets are available to accommodate several new or expanded industrial sources. Replacement of woodstoves in low income, sole-source homes is the most likely source of external offsets (Page E-3).

4. Local voluntary solutions to industrial emission growth management are needed rather than state imposed rules.

The SIP must contain effective and enforceable measures to address growth in industrial emissions. In the absence of local ordinances, the Department bears responsibility for adopting an industrial emission growth management strategy (Page E-4).

5. The Urban Growth Boundary should not be adopted as the nonattainment area.

The boundary within which the control strategies apply must incorporate the area which currently exceeds or in the future may exceed air standards. It must also be a legally defined boundary for which population, housing and transportation growth forecasts are prepared. The Department believes that the Urban Growth Boundary best meets these criteria (Page E-5).

6. The rule should not be retroactive.

Because of the very high degree of emission reduction required to attain air quality standards in Klamath Falls, every reasonable measure must be taken to manage industrial

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Agenda Item:  
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emission growth. The Department believes that the rule should be retroactive to insure that proposed industrial expansions do not interfere with attainment and maintenance of air quality standards if and when permits are issued. The rule also insures that efforts to gain public cooperation in reducing woodstove emissions are not undermined by public perception of inequities in allocating woodstove emission reduction gains to industry (Page E-6).

PROGRAM CONSIDERATIONS:

There will be some impact on the agency's budget associated with management of the emission offset program. There will be no impacts on other approvals required, or change in relationships with other agencies if the Commission were to adopt this rule. The Commission's action on this rule may affect Agenda Item P (Discharge of Additional Wastewater into a Lake Requiring Commission Approval) in the event that Jeld-Wen, Inc. decides to withdraw it's pending Air Contaminant Discharge Permit. The Department has committed considerable resources in seeking solutions to Klamath Falls' air quality problem. Adoption of the rule represents an important step in seeking solutions to this problem.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

In developing the alternatives, two issues were considered:

- (1) Do industrial emission increases need to be managed to insure attainment of air quality standards ?;
- (2) Should industrial emission increases be addressed at the time of adoption of the Klamath Falls State Implementation Plan or is action needed now ?

The Department believes that industrial emission growth allowed under the current 15 ton offset rule would significantly interfere with efforts to attain air quality standards. It is also the Department's opinion that timely action is needed to assure that emission increases from new and modified industrial sources now being planned are covered by the rule. Three options have been developed:

1. Retain current requirements for LAER control and offsets on industrial emission growth at 15 tons per year or greater emission increases.

This option represents no change from the current rules. It would allow each new industry within the UGB or modifications to existing industry to increase emissions by up to 15 tons per year per facility without offsets or LAER control, adding the equivalent in PM<sub>10</sub> emissions of 84 sole-source woodheating households to the airshed each time. This is equivalent to about 1  $\mu\text{g}/\text{m}^3$  daily impact increase. Such additional impacts on the airshed would significantly interfere with efforts to attain and maintain compliance with air quality standards. The equity of requiring up to a 90 % reduction in woodstove emissions while allowing significant increases in industrial emissions is of great concern to the Department.

2. Revision of the requirements for LAER control and offsets from 15 to 5 tons per year, applied retroactively to all new or modified sources within the Klamath Falls UGB for which permits have not been issued prior to April 29, 1988.

This option was brought before the Commission for public hearing authorization on November 4, 1988 (Agenda Item H). In initially proposing the rule before the Commission, the Department felt that stringent and consistent industrial control and offset rules should be adopted in Klamath Falls (as they have been for the Medford Nonattainment Area) because of the severe PM<sub>10</sub> air quality problems in the airshed. Also, the rule needs to be retroactive to mitigate emission increases in pending industrial permit applications.

3. Retain the current 15 ton per year requirement for LAER but for new or modified sources greater than 5 but less than 15 tons per year require either (a) emission offsets or (b) LAER control technology. The rule would apply retroactive to sources for which permits have not been issued prior to April 29, 1988.

After consideration of public comment, the Department concurs that application of LAER technology is probably not cost effective for Klamath Falls industrial sources because of their smaller size relative to those in Medford. The Department believes that the 5 ton per year emission offset requirement should be adopted because it is a cost-effective approach to managing industrial

emission growth. Industries that would be affected by the retroactive element of the rule would have the option of applying LAER technology (only) in lieu of offsets. Since emissions from low income, sole source woodheating households is the least costly source of offsets, industrial emissions will likely be offset by reductions in woodstove smoke from sources in the heart of the nonattainment area.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends adoption of Alternative 3.

This alternative provides for industrial emission growth management in a cost-effective manner through offsets. Most likely these offsets would come from replacement of woodstoves in low income, sole source woodheating households. Because woodheating emission reductions will be concentrated in the space heating season within the heart of the nonattainment area, a greater net air quality benefit as required by Department rule will result. The cost of offsets (about \$168,000 for 15 tons per year) to industry is much less than including LAER technology control equipment (\$350,000 per 15 tons per year minimum in capital equipment alone).

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The proposed rule is consistent with the Department's proposed strategy for controlling industrial PM<sub>10</sub> emissions in the Medford-Ashland, Grants Pass and Klamath Falls nonattainment areas as part of the State Implementation Plan for attaining and maintaining the National Ambient Air Quality Standards for particulate matter. The Department is not aware of conflicts involving this proposed rule with any agency or legislative policies.

ISSUES FOR COMMISSION TO RESOLVE:

1. Does the Commission support a tighter industrial PM<sub>10</sub> emission growth strategy for the Klamath Falls airshed? Should the rule be retroactive? Should the rule be adopted now or later as part of the overall control strategy?
2. Does the Commission concur that offsets are a cost-effective approach to managing industrial emission growth greater than 5 tons per year?



Meeting Date: April 14, 1989  
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3. Does the Commission concur that LAER control technology is not cost-effective for smaller industrial sources and that emission increases of less than 15 tons per year within the Klamath Falls Urban Growth Boundary should not require LAER controls ?
4. Should the Urban Growth Boundary be adopted as the nonattainment area ?

INTENDED FOLLOWUP ACTIONS:

- A. File adopted rules with the Secretary of State and incorporate into the Klamath Falls PM<sub>10</sub> Nonattainment Area State Implementation Plan.

Approved:

Section: John Kowalick

Division: Wild Area

Director: Rydia Taylor  
for Fred Hansen

Report Prepared By: John E. Core  
Phone: 229-5380  
Date Prepared: March 24, 1989

JC:k  
PLANAK1501  
March 28, 1989

WORK SESSION REQUEST FOR EQC DISCUSSION
--

Meeting Date: June 1, 1989

Agenda Item: \_\_\_\_\_

Division: Air QualitySection: Program Planning**SUBJECT:**

Issues Related to the Proposed Adoption of New Industrial Rules for PM<sub>10</sub> Emission Control within the Klamath Falls Urban Growth Boundary.

**PURPOSE:**

Response to Commission concerns regarding the Department's authority and the feasibility of obtaining residential wood stove emission offsets and development of criteria to define emission offset credits.

**ACTION REQUESTED:**

- Work Session Discussion
- General Program Background
- Potential Strategy, Policy, or Rules
- Agenda Item  for Current Meeting
- Other: Response to Commission Request
- Authorize Rulemaking Hearing
- Adopt Rules
- |                                      |                                     |
|--------------------------------------|-------------------------------------|
| Proposed Rules                       | Attachment <input type="checkbox"/> |
| Rulemaking Statements                | Attachment <input type="checkbox"/> |
| Fiscal and Economic Impact Statement | Attachment <input type="checkbox"/> |
| Public Notice                        | Attachment <input type="checkbox"/> |
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
- |                |                                     |
|----------------|-------------------------------------|
| Proposed Order | Attachment <input type="checkbox"/> |
|----------------|-------------------------------------|
- Approve Department Recommendation
- |   |                                     |
|---|-------------------------------------|
| <input type="checkbox"/> Variance Request     | Attachment <input type="checkbox"/> |
| <input type="checkbox"/> Exception to Rule    | Attachment <input type="checkbox"/> |
| <input type="checkbox"/> Informational Report | Attachment <input type="checkbox"/> |
| <input type="checkbox"/> Other: (specify)     | Attachment <input type="checkbox"/> |

Meeting Date: June 1, 1989  
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DESCRIPTION OF REQUESTED ACTION:

Commission discussion and resolution of issues related to the use of woodstove emissions as external industrial offsets.

AUTHORITY/NEED FOR ACTION:

<input type="checkbox"/> Required by Statute: _____	Attachment _____
Enactment Date: _____	
<input type="checkbox"/> Statutory Authority: _____	Attachment _____
<input type="checkbox"/> Pursuant to Rule: _____	Attachment _____
<input type="checkbox"/> Pursuant to Federal Law/Rule: _____	Attachment _____
<input type="checkbox"/> Other: Rule Amendment	Attachment _____

Time Constraints:

Timely resolution of the issues is important to at least one industry with a pending permit application. Resolution is also important to the scope of the PM<sub>10</sub> attainment/maintenance strategy for the Klamath Falls area scheduled for hearing authorization in September.

DEVELOPMENTAL BACKGROUND:

<input type="checkbox"/> Advisory Committee Report/Recommendation	Attachment _____
<input type="checkbox"/> Hearing Officer's Report	Attachment _____
<input type="checkbox"/> Response to Testimony/Comments	Attachment _____
<input checked="" type="checkbox"/> Prior EQC Agenda Items: Item I, April 14, 1989	Attachment <u>A</u>
<input checked="" type="checkbox"/> Other Related Reports/Rules/Statutes:	Attachment <u>B</u>
<input type="checkbox"/> Supplemental Background Information	Attachment _____

At the April 14, 1989 EQC meeting (Agenda Item I), the Department proposed adoption of new industrial emission offset rules for the Klamath Falls nonattainment area which would lower the PM<sub>10</sub> offset requirement from 15 to 5 tons per year. Following consideration of the issues, the Commission decided to defer action on the proposed rule pending resolution of three issues related to the use of woodstoves as external industrial emission offsets. The Commission asked that these issues be scheduled for discussion at the June 1, 1989 work session.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

Resolution of the woodstove external emission offset issues is needed prior to the Commission's action on the proposed Klamath Falls Industrial offset rule.

Meeting Date: June 1, 1989  
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**PROGRAM CONSIDERATIONS:**

The three issues requiring Commission discussion and resolution are:

**Issue 1: The Department's authority to allow residential woodstove emission reductions as external offsets for industrial sources.**

Federal and state rules require that offsets be enforceable and permanent. Under current statutes, the Department is prohibited from regulating residential heating systems except for the purpose of regulating the sale of new wood stoves through a certification program. Generally, industries negotiate external offsets directly. Under these programs, industrial sources can work directly with low income homeowners that heat their homes with wood to replace their woodstoves with a non-wood space heating system. The industry would negotiate the amount of compensation directly with the homeowner. To insure that the emission offsets are permanent and enforceable, a restrictive covenant on the property's title could be requested by the industry. The covenant would prohibit future installation of a woodstove in the home. Proof of the destruction of the woodstove removed from the home should also be required. Similar title restrictions and proof of stove destruction have been required by the Jackson County Housing Authority in their administration of a low income woodstove conversion program in the Medford area.

The Department could then require, as a condition of the industry's Air Contaminant Discharge Permit, that the industry pursue legal action to enforce the title covenants or face corresponding reduction of their permitted emission increase. In the event that an audit should determine that the offsets were not permanently in place, the Department could modify the industry's permit to lower the Plant Site Emission Level by a corresponding amount. This indirect approach of assuring the enforceability and permanency of woodstove offsets would not conflict with current statute restrictions.

Both the Attorney General's Office and the U.S. Environmental Protection Agency Region X indicate that the approach described above is feasible and that no additional Department authority would be needed to allow woodstoves emission to be used as a source of industrial emission offset.

**Issue 2: The feasibility of obtaining residential woodstove emission offsets in Klamath Falls.**

Based on the experience and success of the Jackson County Housing Authority's CLEAR Project, Klamath Falls industries should be able to obtain offset commitment from woodheating households.

The Cooperative Local Effort for Air Resource (CLEAR) program in the Medford area assists low income families who depend on wood heat for their homes. Currently, families with annual incomes below 80 percent of the local median income may apply to have their woodstove removed and replaced with an electric, gas or pellet space heating system. The program has a cap of \$2,000 for the installed heating plant expense. Each participating homeowner has a title covenant recorded in the county records with prohibits future installation of a cord wood heating device at that address. The CLEAR project is funded through a Housing and Urban Development (HUD) grant that will be expanded with Oil Settlement Funds that have recently been obtained by the Department.

Since startup of the CLEAR project in August, 1988 about 100 applications have been received...principally from older people that can no longer heat with wood because of the effort needed to cut, split and handle cord wood. The CLEAR project was intentionally not widely advertised because of limited staff resources to process the applications. If, in the opinion of the Housing Authority, an effort had been made to aggressively market the program far more applications would have been received than could have been processed. Applications now being received are processed in about two weeks with installation of the replacement heating system within one month. Woodstoves removed from the homes are cut up and sold as scrap metal.

While project CLEAR was not established as an industrial offset program, it does demonstrate that if funding is available, a significant number of wood heating households will be willing to participate in a heating plant replacement program. Judging by the number of participants in the CLEAR project and considering that the population served by the present program is similar to that of Klamath Falls, there should be more than enough willing homeowners in the Klamath Falls area to provide several permit applicants with external offsets. About 84 woodstoves must be removed to provide a 15 tons/year PM<sub>10</sub> offset. There are about 630 low income sole source woodheating households within the Klamath Falls Urban Growth Boundary.

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Department rules require that offsets be in place before industrial emission increases can occur. There also must be a net air quality benefit from the offsets for both annual average and 24-hour periods that exceed the PM<sub>10</sub> air quality standards. These requirements could be met by sources like Jeld-Wen which need an immediate increase in industrial emissions as long as woodstove offsets are in place by the first of November when daily violations of PM<sub>10</sub> standards begin because of increased wood space heating. From experience with the CLEAR project, there would be enough time for Jeld-Wen to meet these requirements.

**Issue 3: The need to develop formal criteria defining external emission offset programs.**

Federal and state rules require that offsets be quantifiable, permanent and enforceable. The Department is not aware of any other air quality agency that has adopted offset specific criteria to specify how these requirements will be met. This is because there are numerous ways of meeting these general rule requirements. To assist industries that may wish to establish a residential woodstove external emission offset program, the Department has prepared guidelines describing program criteria necessary to meet basic State of Oregon and EPA rule requirements (Attachment B). The above guidelines could be put in rule form, however, it is not necessary according to EPA and the Attorney General's Office. Incorporation of the guidance into rules would delay use of woodstove offsets and could unnecessarily limit the specific ways in which general offset rule requirement could be met.

**ALTERNATIVES CONSIDERED BY THE DEPARTMENT:**

In lieu of administering the emission offset program themselves, Klamath Falls industrial sources may wish to request Klamath County's assistance in managing the funds. In either case, the criteria and procedures developed by the Jackson County Housing Authority would be helpful in establishing the Klamath Falls program in the shortest possible time that would meet offset rule requirements.

**DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:**

No significant statutory, administrative or technical issues have been identified with respect to immediately using woodstove emissions as offsets. The Department therefore recommends that the Commission proceed with considering adoption of the revised Klamath Falls Industrial Offset rule.

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CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

Not Applicable

ISSUES FOR COMMISSION TO RESOLVE:

Not Applicable

INTENDED FOLLOWUP ACTIONS:

Commission reconsideration of the Klamath Falls Industrial Offset rule.

Approved:

Section: \_\_\_\_\_

Division: \_\_\_\_\_

Director: \_\_\_\_\_

Report Prepared By: John E. Core

Phone: 229-5380

Date Prepared: May 4, 1989

JEC:k  
PLAN\AK1788  
May 4, 1989

**Attachment H**

**Department of Environmental Quality Guidelines**

**Criteria for Establishing a Klamath Falls  
Residential Woodstove External Emission Offset Program**

Federal and state rules require that PM<sub>10</sub> emission offsets be quantifiable, permanent and enforceable. The following guidance has been developed by the Department to provide industries with the basic criteria that must be satisfied to meet State of Oregon and Environmental Protection Agency offset rule requirements.

**1. Eligibility of Sources as External Offsets**

Only wood heating homes that could otherwise be exempt from curtailment programs are eligible as sources of offsets, i.e., sole source woodheating homes with annual household incomes below 125 % of the HUD poverty level.

**2. Calculating Emission Offset Credits**

Offset calculations are based on standard engineering emission inventory calculations using published EPA emission factors. The following emission reduction credit would be granted for each woodstove in Klamath Falls (based on an average of 4.2 cords/year usage) that is replaced with a nonwood heating system:

Stove Type Replaced	Offset Credit (Pounds of PM <sub>10</sub> per year)
Conventional	357
Certified, Catalytic	221
Certified, Noncatalytic	207

**3. Permanency of Offsets**

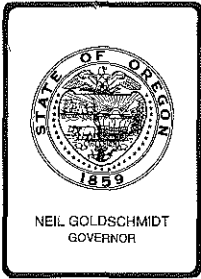
Woodstove offset credits must meet the following requirements:

- A. The permit applicant must require that the homeowner place a restrictive covenant on the property's deed prohibiting future installation of a woodheating device
- B. An independent, bonded third party must certify that the woodstove has been removed from the home and destroyed.

**4. Enforceability of Offsets**

Offsets become SIP revisions and are therefore subject to EPA oversight audits and public comment with respect to meeting the three criteria (quantifiable, permanent and enforceable). Should some or all of the offset be found at any time to not meet existing rule requirements, the Department will revise the source's Plant Site Emission Limit within their Air Contaminant Discharge Permit by a compensating amount.





## Department of Environmental Quality

811 SW SIXTH AVENUE, PORTLAND, OREGON 97204-1390 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: 6/2/89  
Agenda Item: I  
Division: HSW  
Section: Haz. Waste Program Dev.

#### SUBJECT:

Hazardous Waste Rules - General Resource Conservation and Recovery Act (RCRA) Rule Revisions, Including Adoption of New Federal Rules.

#### PURPOSE:

This is the fourth in a series of adoptions by reference of federal regulations in order to maintain authorization from the Environmental Protection Agency (EPA) to implement the base RCRA program and to implement HSWA regulations in lieu of EPA.

#### ACTION REQUESTED:

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item  for Current Meeting
  - Other: (specify)
  
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment A
  - Rulemaking Statements Attachment B
  - Fiscal and Economic Impact Statement Attachment B
  - Public Notice Attachment
  
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment
  
- Approve Department Recommendation

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<input type="checkbox"/> Variance Request	Attachment	<input type="checkbox"/>
<input type="checkbox"/> Exception to Rule	Attachment	<input type="checkbox"/>
<input type="checkbox"/> Informational Report	Attachment	<input type="checkbox"/>
<input type="checkbox"/> Other: (specify)	Attachment	<input type="checkbox"/>

**DESCRIPTION OF REQUESTED ACTION:**

The regulations and amendments being proposed for adoption were promulgated under the Resource Conservation and Recovery Act (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA).

**AUTHORITY/NEED FOR ACTION:**

<input type="checkbox"/> Required by Statute: _____	Attachment	<input type="checkbox"/>
Enactment Date: _____		
<input checked="" type="checkbox"/> Statutory Authority: <u>ORS 466.020</u>	Attachment	<input type="checkbox"/>
<input type="checkbox"/> Pursuant to Rule: _____	Attachment	<input type="checkbox"/>
<input type="checkbox"/> Pursuant to Federal Law/Rule: _____	Attachment	<input type="checkbox"/>
<input type="checkbox"/> Other:	Attachment	<input type="checkbox"/>

Time Constraints: All federal regulations for the base RCRA program promulgated through December 1987 must be adopted by the Department no later than July 1989 in order to maintain an authorized base program in Oregon. The regulations are not in effect in Oregon until they are adopted by the Department of Environmental Quality. There is no immediate time constraint on adopting the proposed HSWA regulations, although the Department's HSWA authorization application needs to be submitted to EPA by 1991 for all HSWA regulations promulgated between 1984 and 1988.

**DEVELOPMENTAL BACKGROUND:**

<input type="checkbox"/> Advisory Committee Report/Recommendation	Attachment	<input type="checkbox"/>
<input checked="" type="checkbox"/> Hearing Officer's Report/Recommendations	Attachment	<u>C</u>
<input checked="" type="checkbox"/> Response to Testimony/Comments	Attachment	<u>D</u>
<input type="checkbox"/> Prior EQC Agenda Items: (list)		
<input type="checkbox"/> Other Related Reports/Rules/Statutes:	Attachment	<input type="checkbox"/>
<input checked="" type="checkbox"/> Supplemental Background Information: Background report and summary of proposed rules, amendments and corrections.	Attachment	<u>E</u>

**REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:**

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: May 26, 1989

TO: Environmental Quality Commission

FROM:

Fred Hansen, DEQ

*Hydora Taylor*

SUBJECT: June 2 EQC Meeting: Hazardous Waste Rules, Agenda Item I.

On April 19, 1989 the Department held a public hearing on adopting by reference several federal hazardous waste regulations. A regulation dealing with hazardous waste permit modifications was included in the proposal. Chem-Security Systems, Inc. (CSSI) did not offer testimony during the comment period.

However, recently, CSSI contacted the Department about some concerns they have related to the signature authority for hazardous waste permit modifications. The issue CSSI raised is whether or not the Department or the EQC has authority to approve certain permit modifications. The proposed regulation is not clear on that matter. CSSI recommended that the proposed regulation should state that the Department, rather than the EQC approve modifications that are minor technical or administrative changes to the facility permit.

Department staff met and discussed this issue with the Assistant Attorney General. Statutorily, the EQC is the permitting authority for land disposal permits and the Department is the permitting authority for storage and treatment permits. It could be concluded that those same authorities generally carry through for modifications, although the law does not mention modifications specifically.

The proposed permit modification rules (53 FR 37912, September 28, 1988) classify permit modifications into three categories based on the significance of the modification being requested by a treatment, storage or disposal facility. Generally, Class 1 and Class 2 are minor administrative and technical modifications and Class 3 are major, policy related modifications.

Under the federal rules proposed for adoption, Class 1 modifications do not require approval. Modifications such as inspection form revisions, correction of typographical errors, and clarifying regulatory citations are examples of Class 1 modifications not requiring approval. Class 2 modifications require approval. Class 2 modifications are technically more

Memo to: Environmental Quality Commission  
May 26, 1989  
Page 2

significant than Class 1 modifications and include revisions of operating requirements for a hazardous waste treatment unit, changes in frequency or content of on-site inspection schedules, and changes in the number, location and design of ground-water monitoring systems. Class 3 modifications are major technical or operational changes to a facility's operation such as adding new treatment, storage or disposal units to an existing operation, making structural changes to buildings or hazardous waste management units, and allowing additional, new wastes to be managed at the facility.

Because Class 1 and Class 2 permit modifications do not generally effect policy and are administrative and technical in nature, and in anticipation of numerous requests for such permit modifications, the Department proposes to amend Attachment A of the staff report by adding clarifying language that would allow the Department to approve Class 1 and Class 2 permit modifications for storage, treatment and disposal facilities, and Class 3 permit modifications for storage and treatment facilities. The EQC would continue to have approval authority for Class 3 land disposal permit modifications. The clarifying language is found on page A-7, paragraph 9 of the amended Attachment A (attached). The amended Attachment A replaces Attachment A in the May 18, 1989 Staff Report.

Attachment

cc: Jan Whitworth, HSW  
Stephanie Hallock, HSW

gc/gjc

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The regulated community affected by these rules are those who generate, treat, store and dispose of hazardous waste.

Adopting the new permit modification rules for treatment, storage and disposal facilities (TSDFs) will streamline the joint permitting process with EPA. Treatment, storage and disposal facilities are currently faced with two sets of permit modification rules to follow. Adopting the new permit modification rules will eliminate that inconsistency. Chem-Security Systems, Inc. (CSSI) is the only facility currently affected by these rules because it is the only facility in Oregon with a RCRA final status permit. There will be additional permitted facilities in the future that this rule will affect.

Currently, the Department requires small quantity generators (SQG) to submit a full exception report to the Department if they do not receive confirmation from the TSDFs of receipt of their hazardous waste. There is a new federal rule (52 FR 35894, 9/23/87) that does not require SQGs to submit a report to the Department.

The Department proposes to retain a more stringent rule because it is consistent with the management of hazardous waste from "cradle to grave." By filing an exception report with the Department, the generator is alerting the Department that the wastes may not have been received by a TSDF. The Department needs to know this information in order to determine if the wastes have been properly managed.

Adopting the land disposal restrictions on the "First Third" wastes will affect the steel industry. The industry generates emission control dust/sludge (codified a K061 hazardous waste) from the primary production of steel. This waste is 1 of 157 wastes which is subject to the land disposal restrictions.

Although the K061 waste listed in this HSWA regulation is already regulated in Oregon under the authority of EPA, once the Department adopts the regulation, the steel industry will include the Department in the discussions with EPA regarding the future capacity in Oregon to manage the K061 smelting waste. Currently, the industry is negotiating directly with EPA regarding capacity issues. Testimony on this issue was received from Cascade Steel Rolling Mills, Inc. (see Attachment C and Attachment D for the Department's response). Should the discussions result in a change to the current K061 regulations, the Department would evaluate those changes for consistency with the objectives of the hazardous waste program, and implement those changes if no overriding

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environmental concern exists to maintain a more stringent rule than the federal rule.

**PROGRAM CONSIDERATIONS:**

Adopting the land disposal restriction requirements will increase the time it takes to conduct and document a compliance inspection. This may require more resources to provide generator inspections, or if additional resources are not available, the number of inspections to be conducted may be reduced. The Hazardous Waste Program will need to conduct an internal training program to ensure that appropriate staff are trained to be able to implement the new requirements.

**ALTERNATIVES CONSIDERED BY THE DEPARTMENT:**

1. Adopt the base RCRA and HSWA regulations as proposed.

The base RCRA regulations promulgated by EPA through December 30, 1987 must be adopted by July 1, 1989, or the Department risks losing authorization of the base RCRA program. There is no immediate time frame in which to adopt the HSWA regulations. However, the Department is required to submit to EPA an HSWA authorization application by 1991; HSWA regulations will need to be adopted prior to that date. Presently, the Department is planning to submit an application for HSWA Authorization in September 1989.

2. Adopt the base RCRA regulations; do not adopt the HSWA regulations.

Not adopting the HSWA regulations will not affect authorization at this time. EPA is implementing the HSWA requirements in Oregon. However, the Department's policy has been to seek authorization to implement federal hazardous waste regulations in Oregon as promptly as possible. It is important for the Department to implement these requirements in order to demonstrate capability for authorization. Also, it is important that the Department become authorized as soon as practicable in order to provide a consistent regulatory presence for the regulated community.

For example, in our oversight of CSSI, which is affected extensively by the HSWA regulations and particularly by the land disposal restrictions, the Department should have the regulatory authority to address environmental issues at the site that pertain to those regulations. By May 1990, all hazardous wastes will be restricted from landfilling unless treatment standards are met. This means that all wastes treated or landfilled at CSSI will be affected. Therefore,

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the processes, procedures and plans that CSSI is using to implement the land disposal restrictions will need to be reviewed and approved by the Department. Without adopting the land disposal restriction regulations, the inspections, plan review, and enforcement processes would be conducted solely by EPA which may create inconsistencies in RCRA implementation and compliance at CSSI, as well as at generators and other TSDFs in Oregon.

Oregon generators are required to meet the land disposal restriction requirements, too. For example, generators must certify that their wastes meet treatment standards when shipping to CSSI for disposal. The certification accompanies the waste. Therefore, because the Department would not have the regulatory authority to enforce land disposal restriction violations at either CSSI or at generators and other TSDFs, the Department would be abdicating enforcement authority to EPA for a significant part of the hazardous waste program.

**DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:**

The Department recommends that alternative one be chosen in order to remain authorized for the base RCRA program, to seek authorization for the HSWA regulations, and to provide consistent regulatory authority over the regulated community, particularly at CSSI and at the generators and other TSDFs affected by the land disposal requirements.

**CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:**

Legislative and agency policy has been to seek and maintain authorization for the federal hazardous waste program. It is also agency policy to implement a hazardous waste management program that is not more stringent than the federal program, except where there is clear reason to ensure protection of public health and the environment in Oregon.

Adoption of the base RCRA regulations at this time is necessary to meet federally mandated time frames.

**ISSUES FOR COMMISSION TO RESOLVE:**

1. Because some of the rules being proposed for adoption are related to HSWA and future authorization, the Commission could delay adoption of these rules. However, the Department recommends adoption at this time for the reasons discussed earlier. Furthermore, since the steel industry is concerned about capacity to manage K061 wastes and is currently

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negotiating with EPA regarding capacity issues, the Commission could postpone adoption of the "First Third" land disposal restriction rule which contains the treatment standard for K061 wastes until those negotiations are completed. However, the Department recommends adoption of the rule at this time.

The steel industry is concerned about available capacity to manage K061 dust/sludge generated from steel smelting operations. Currently, most K061 smelting waste that is being generated by Oregon steel mills is being managed at CSSI. Some waste is being used as an ingredient to make fertilizer in Washington. In the past, CSSI has had problems stabilizing the lead in the wastes, which is required before landfilling. At one time, CSSI discontinued receiving K061 wastes but recently CSSI began stabilizing K061 wastes again and has been able to meet the treatment standard for lead.

There are other facilities in the nation which stabilize such wastes. In addition, the Department intends to work with the steel industry to develop other options to manage their wastes, such as recycling or using it in other manufacturing processes. Beginning in 1990, under the "First Third" land disposal restriction requirements, K061 smelting wastes containing 15 percent or more zinc will need to be recycled using high temperature recovery systems to remove the metals. Currently, there is one facility in the nation with the capability to do high temperature metals recovery. This facility has limited capacity which is why EPA is not requiring high temperature metals recovery until 1990. The expectation is that additional capacity will come on the market by 1990.

Stabilization is the state-of-the-art management process for K061 wastes at this time. However, according to the steel industry, stabilization does not ensure that the land disposal restriction treatment standard will always be met. According to CSSI, this is especially true for K061 wastes generated by steel recyclers, such as Cascade Steel Rolling Mills, Inc., because scrap metals contain components that are not found in iron ore. These additional components may impede the stabilization reaction. Currently, stabilization of generated K061 smelting waste is being done at CSSI and the treatment standard is being met.

The Commission could postpone adoption of the rule until the capacity issue is resolved. However, there is nothing to be gained by this action. The K061 land disposal restriction will continue to be implemented in Oregon and in the nation,



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regardless of whether or not Oregon adopts the regulation, and regardless of capacity issues. Defining treatment standards and hazardous constituent concentration levels that may be present before a waste is landfilled is certainly an incentive to develop management options other than landfilling. Management methods involving waste reduction, recycling or treatment are preferred over landfilling hazardous wastes. Therefore, adoption of the "First Third" land disposal restrictions, of which the K061 waste is 1 of 157 wastes listed, is important to help ensure that the priority waste management practices are being achieved. To postpone adoption because of one waste capacity issue is not in the best interest of the Department's hazardous waste management priorities, because one of the primary goals of the land disposal restriction requirements is to drive the reduction and recycling of hazardous waste.

INTENDED FOLLOWUP ACTIONS:

Submit base RCRA and HSWA authorization application to EPA September, 1989.

Approved:

Section:

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Date Prepared: May 18, 1989

GC/GC  
EQC6289A51789

Before the Environmental Quality Commission of the State of Oregon

In the Matter of Amending                    )   Proposed Amendments  
OAR 340, Divisions 100, 101, 102,        )  
104, and 105                                 )

Unless otherwise indicated, material enclosed in brackets [ ] is proposed to be deleted and material that is underlined> is proposed to be added.

1. Rule 340-100-002 is proposed to be amended as follows:

Adoption of United States Environmental Protection Agency Hazardous Waste Regulations.

340-100-002 (1) Except as otherwise modified or specified by OAR Chapter 340, Divisions 100 to 106, the rules and regulations governing the management of hazardous waste, including its generation, transportation by air or water, treatment, storage and disposal, prescribed by the United States Environmental Protection Agency in Title 40 Code of Federal Regulations, Parts 260 to 266, 270 and Subpart A of 124, amendments thereto promulgated prior to July 1, 1986, and amendments listed below in section (2) of this rule are adopted and prescribed by the Commission to be observed by all persons subject to ORS 466.005 to 466.080, and 466.090 to 466.215.

(2) In addition to the regulations and amendments promulgated prior to July 1, 1986, as described in section (1) of this rule, the following amendments to Title 40 Code of Federal Regulations, Parts 260 to 266, 270 and Subpart A of 124, as published in volumes 51 and 52 of the Federal Register (FR), are adopted and prescribed by the Commission to be observed by all persons subject to ORS 466.005 to 466.080, and 466.090 to 466.215:

(a) Amendments pertaining to liability coverage for hazardous waste management facilities, in 51 FR 25354-56 (July 11, 1986).

(b) Revised standards for hazardous waste storage and treatment tank systems, in 51 FR 25470-86 (July 14, 1986).

(c) Amendments to the rules concerning identification and listing of hazardous waste, in 51 FR 28298-310 (August 6, 1986).

(d) Technical corrections to the HSWA final codification rule, in 51 FR 28556 (August 8, 1986).

(e) Amendments to the rules concerning exports of hazardous waste, in 51 FR 28682-86 (August 8, 1986).

(f) Corrections to the revised standards for hazardous waste storage and treatment tank systems, in 51 FR 29430-31 (August 15, 1986).

- (g) Amendments clarifying the listing for spent pickle liquor from steel finishing operations, in 51 FR 33612 (September 22, 1986).
- (h) Amendments concerning the waste minimization certification by hazardous waste generators, in 51 FR 35192-94 (October 1, 1986).
- (i) Amendments to the rules concerning the identification and listing of hazardous waste, in 51 FR 37728-29 (October 24, 1986).
- (j) Amendments to the interim status standards for hazardous waste surface impoundments, in 52 FR 8708-9 (March 19, 1987).
- (k) Technical corrections to the rules concerning burning of hazardous waste fuel and used oil fuel in boilers and industrial furnaces, in 52 FR 11821-22 (April 13, 1987).
- (l) Technical corrections to the definition of solid waste, in 52 FR 21306-7 (June 5, 1987).
- (m) Amendments to the rules concerning the development of corrective action programs for hazardous waste land disposal facilities, in 52 FR 23450 (June 22, 1987).
- (n) Correction to the amended rules concerning the development of corrective action programs for hazardous waste land disposal facilities, in 52 FR 33936 (September 9, 1987).
- (o) Amends incorporation by reference of revised manual SW-846, in 52 FR 8072 (March 16, 1987).
- (p) Amendment to rules concerning groundwater monitoring; establishes an Appendix IX list of hazardous constituents, in 52 FR 25942 (July 9, 1987).
- (q) Identification and listing of hazardous wastes; a technical correction concerning identifying that residues in containers or liners are hazardous waste and not the containers, in 52 FR 26012 (July 10, 1987).
- (r) Amendments to the liability requirements for treatment, storage or disposal facilities; allows corporate guarantee and other financial mechanisms to cover liability in 52 FR 44314 (November 18, 1987); and 53 FR 33938 (September 1, 1988) respectively.
- (s) Establishes new standards for permitting miscellaneous hazardous waste management units, in 52 FR 46946 (December 10, 1987).
- (t) Establishes land disposal restrictions for F-listed solvents and dioxin containing wastes; prescribes treatment standards using toxicity characteristic leaching procedures (TCLP), in 51 FR 40572 (November 11, 1986).
- (u) Corrections to the November 7, 1986 regulations concerning land disposal restrictions; the addition of applicable section to both Parts 264 and 265, in 52 FR 21010 (June 4, 1987).
- (v) Amendments pertaining to the November 7, 1986 regulations concerning land disposal restrictions; rescinds non-migration petition authority and establishes "California List", in 52 FR 25760 (July 8, 1987).
- (w) Amendments to the test methods in the July 8, 1987 land disposal restrictions known as the "California List," 52 FR 41295 (October 27, 1987).
- (x) HSWA Codification Rules pertaining primarily to corrective action, in 52 FR 45788 (December 1, 1987).
- (y) Amendments pertaining to the regulations concerning treatability studies in 53 FR 27290 (July 19, 1988).

(z) Regulations prohibiting the land disposal of the "First Third" of hazardous wastes; assigns treatment standards for wastewaters and nonwastewaters, in 53 FR 31138 (August 17, 1988).

(aa) Amendments pertaining to regulations governing the modifications of hazardous waste management permits, in 53 FR 37912 (September 28, 1988).

(bb) Corrections to the September 28, 1988 regulations concerning permit modifications, in 53 FR 41649 (October 24, 1988).

(cc) Clarification of surface impoundment retrofitting requirements as they pertain to closure requirements, in 53 FR 24717 (June 30, 1988).

(dd) Amendments pertaining to groundwater monitoring and statistical evaluation procedures, in 53 FR 39720 (October 11, 1988).

(ee) Amendments pertaining to the regulations governing wastes from metal smelting operations; relists potliners and other metal wastes, in 53 FR 35412 (September 13, 1988).

(ff) Corrections to the August 15, 1986 regulations pertaining to hazardous waste storage and treatment tanks, in 53 FR 34079 (September 2, 1988).

(gg) Amendment to the September 22, 1986 rules concerning spent pickle liquor, in 52 FR 28697 (August 3, 1987).

(hh) Amendments to the rules concerning the identification and listing of hazardous waste; deletion of dextran and strontium sulfide from the list in 40 CFR 261.33(f), in 53 FR 43878 and 43884 (October 31, 1988).

(ii) Technical corrections; identification and listing of hazardous waste; 40 CFR Part 261, in 53 FR 13382 (April 22, 1988).

2. Rule 340-101-032 is proposed to be deleted as follows:

[Hazardous waste from specific sources.

340-101-032 The following hazardous wastes are added to and made a part of the list of hazardous wastes in 40 CFR 261.32:

K088 . . . spent potliner from primary aluminum  
reduction - Hazard code: R, T]

3. Rule 340-101-033 is proposed to be amended as follows:

**Additional hazardous wastes.**

340-101-033 (1) The residues identified in sections (2) and (3) of this rule are hazardous wastes and are added to and made a part of the list of hazardous wastes in 40 CFR 261.33.

(2) Any residue, including but not limited to manufacturing process wastes and unused chemicals that has either:

(a) A 3% or greater concentration of any substance or mixture of substances listed in 40 CFR 261.33(e); or

(b) A 10% or greater concentration of any substance or mixture of substances listed in 40 CFR 261.33(f).

(3) Any residue or contaminated soil, water or other debris

resulting from the cleanup of a spill into or on any land or water, of either:

- (a) A residue identified in subsection (2) (a); or
- (b) A residue identified in subsection (2) (b).

(4) The wastes identified in subsections (2) (a) and (3) (a) of this rule are identified as acutely hazardous wastes (H) and are subject to the small quantity exclusion defined in 261.5(e).

(Comment: Sections (2) and (3) of this rule shall be applied to a manufacturing process waste only in the event it is not identified elsewhere in this Division, but prior to application of section (5) of this rule.)

(5) (a) A pesticide residue or pesticide manufacturing residue is a toxic hazardous waste if a representative sample of the residue exhibits a 96-hour aquatic LC 50 equal to or less than 250 mg/l.

(b) A pesticide residue or pesticide manufacturing residue identified in subsection (5) (a) of this rule but not in 40 CFR 261.24 or listed elsewhere in Subpart D of 40 CFR Part 261, has the Hazardous Waste Number of X001 and is added to and made a part of list of hazardous wastes in 40 CFR 261.31.

(6) (a) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates identified in subsection (6) (b) this rule are added to and made a part of the list in 40 CFR 261.33(e):

- (b) P999. . . .Nerve agents (such as GB (Sarin) and VX).

4. Rule 340-101-034 is proposed to be deleted as follows:

[Basis for listing hazardous waste.

340-101-034 (1) The waste identified in section (2) of this rule is hereby added to and made a part of Appendix VII: Basis for Listing Hazardous Wastes to 40 CFR Part 261.

- |                  |                         |
|------------------|-------------------------|
| (2) Hazardous    | Hazardous constituents  |
| <u>Waste No.</u> | <u>for which listed</u> |

K088. . . . . cyanide]

5. Rule 340-104-147 (4) is proposed to be amended as follows:

Liability requirements.

340-104-147 (1) This rule amends the requirements of 40 CFR 264.147.

(2) The phrase ". . .in one or more States" at the end of 40 CFR 264.147(a) (1) (ii) is deleted and replaced with the phrase ". . . in Oregon."

(3) The phrase ". . . in one or more states" at the end of 40 CFR

264.147(b)(1)(ii) is deleted and replaced with the phrase ". . . in Oregon."

[(4) The provisions of 40 CFR 264.147(b)(4) are deleted.]

6. Rule 340-104-314 is proposed to be deleted as follows:

**[Prohibition on land disposal of ignitable wastes.**

340-104-314 (1) Except as may be permitted by sections (2) and (3) of this rule or by 40 CFR 264.314(b)(1) to 264.314(b)(4) an owner or operator shall not place in a land disposal unit any liquid waste or the free-liquid portion of any liquid/solid waste mixture if such mixture contains in excess of 20% free liquid, if the waste was initially generated as a liquid or as a liquid/solid mixture and is identified as a hazardous waste only because it is listed on the basis of or meets the characteristic of ignitability (I).

(Comment: These wastes include but are not limited to those having EPA Hazardous Waste Numbers D001, F003, U001, U002, U031, U055, U056, U057, U092, U110, U112, U113, U117, U124, U125, U154, U161, U171, U186, U213 and U239.)

(2) The generator and owner or operator may apply for an exemption from section (1) of this rule for a specific waste if he can demonstrate that:

(a) The disposal will not pose a threat to public health or the environment due to the properties or quantity of the waste, characteristics of the landfill, the proposed disposal procedure and other relevant circumstances;

(b) The waste generator has taken all practicable steps to eliminate or minimize the generation of the waste and to recover, concentrate or render the waste non-hazardous; and

(c) There is no reasonably available means of beneficial use, reuse, recycle, reclamation or treatment.

(3) Upon receipt of a request for an exemption, the department shall make a tentative determination to approve or deny the request within thirty (30) days of receipt. The generator and owner or operator shall have thirty (30) days from the date of tentative denial to appeal the denial to the Department. The Department shall make a final determination within ninety (90) days of the original request if a timely appeal has been filed.

(Comment: The intention of this rule is to disallow the landfilling of solids formed by soil stabilization of liquids. This rule does not pertain to liquids which become mixed with soil or other debris as the result of a spill or to lab packs as defined in 40 CFR 264.316.)]

7. 340-105-030 is proposed to be amended as follows:

**Conditions applicable to all permits.**

340-105-030 (1) The phrase ". . . the appropriate Act . . ." in the second sentence of 40 CFR 270.30(a) is deleted and replaced with the phrase ". . . ORS Chapter [459] 466 and OAR Chapter 340 . . ."

[(2) The provisions of 40 CFR 270.30(1)(2)(ii)(B) are deleted.

(3)(a) The provisions of 40 CFR 270.30(1)(3) are deleted and replaced with subsection (3)(b) of this rule.

(b) Transfers. The permit is personal to the permittee and is non-transferable. A new owner or operator shall comply with the requirements of 340-105-010(2)(d)(B)(iv).]

(2) [(4)](a) The provisions of 40 CFR 270.30(1)(6)(i) preceding 270.30(1)(6)(i)(A) are deleted and replaced with subsection [(4)] (2) (b) of this rule.

(b) Immediate reporting. The permittee shall immediately report any noncompliance which may endanger health or the environment as soon as he becomes aware of the circumstances, including:

(3) [(5)](a) The provision of 40 CFR 270.30(1)(9) is deleted and replaced with subsection [(5)] (3) (b) of this rule.

(b) Periodic report. A periodic report must be submitted covering facility activities on an appropriate schedule (see rule 340-104-075).

8. 340-105-040 is proposed to be amended as follows:

**Permit transfers.**

340-105-040 (1) The provisions of 40 CFR 270.40 are [deleted] amended as follows:

(a) In the first sentence in 40 CFR 270.40 (b), amend "may be made as a Class 1 modification" to "will be made as a Class 3 modification," delete the phrase "with prior written approval of the Director," and add after " 270.42" the phrase "and the requirements in OAR 340-120-010(2)(a)(A), (b) (B), (b)(C), (c), (e), (g), (h) and OAR 340-120-025 for a treatment or disposal facility. "

[(2) A permit is personal to the permittee and is non-transferrable.

(3) A new owner or operator of a facility shall comply with the requirements of 340-105-010(2)(d)(B)(iv).]

9. 340-105-041 is proposed to be amended as follows:

**[Major] [m]Modifications or revocation and reissuance of permits.**

340-105-041 (1) The phrase " or except when Division

120 applies" is added to the end of and made part of the provision in 40 CFR 270.41(c). [The sentence "If cause does not exist under this Section or 40 CFR 270.41, the Director shall not modify or revoke and reissue the permit" in the first paragraph of 40 CFR 270.41 is deleted.

(2) (a) The provision of 40 CFR 270.41(a) preceding paragraph (a) (1) is deleted and replaced with subsection (2) (b) of this rule.

(b) Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

(3) (a) The provisions of 40 CFR 270.41(a) (3) are deleted and replaced with subsection (3) (b) of this rule.

(b) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued.

(4) The provision of 40 CFR 270.41(b) (2) is deleted.]

10. 340-105-042 is proposed to be deleted as follows:

[Minor modifications of permits.

340-105-042 The provisions of 40 CFR 270.42(d) are deleted.]

ZB8227/eqc6atta



Before the Environmental Quality Commission of the State of Oregon

In the Matter of Amending                    ) Proposed Amendments  
OAR 340, Divisions 100, 101, 102,        )  
104, and 105                                 )

Unless otherwise indicated, material enclosed in brackets [ ] is proposed to be deleted and material that is underlined> is proposed to be added.

1. Rule 340-100-002 is proposed to be amended as follows:

Adoption of United States Environmental Protection Agency Hazardous Waste Regulations.

340-100-002 (1) Except as otherwise modified or specified by OAR Chapter 340, Divisions 100 to 106, the rules and regulations governing the management of hazardous waste, including its generation, transportation by air or water, treatment, storage and disposal, prescribed by the United States Environmental Protection Agency in Title 40 Code of Federal Regulations, Parts 260 to 266, 270 and Subpart A of 124, amendments thereto promulgated prior to July 1, 1986, and amendments listed below in section (2) of this rule are adopted and prescribed by the Commission to be observed by all persons subject to ORS 466.005 to 466.080, and 466.090 to 466.215.

(2) In addition to the regulations and amendments promulgated prior to July 1, 1986, as described in section (1) of this rule, the following amendments to Title 40 Code of Federal Regulations, Parts 260 to 266, 270 and Subpart A of 124, as published in volumes 51 and 52 of the Federal Register (FR), are adopted and prescribed by the Commission to be observed by all persons subject to ORS 466.005 to 466.080, and 466.090 to 466.215:

(a) Amendments pertaining to liability coverage for hazardous waste management facilities, in 51 FR 25354-56 (July 11, 1986).

(b) Revised standards for hazardous waste storage and treatment tank systems, in 51 FR 25470-86 (July 14, 1986).

(c) Amendments to the rules concerning identification and listing of hazardous waste, in 51 FR 28298-310 (August 6, 1986).

(d) Technical corrections to the HSWA final codification rule, in 51 FR 28556 (August 8, 1986).

(e) Amendments to the rules concerning exports of hazardous waste, in 51 FR 28682-86 (August 8, 1986).

(f) Corrections to the revised standards for hazardous waste storage and treatment tank systems, in 51 FR 29430-31 (August 15, 1986).

(g) Amendments clarifying the listing for spent pickle liquor from steel finishing operations, in 51 FR 33612 (September 22, 1986).

(h) Amendments concerning the waste minimization certification by hazardous waste generators, in 51 FR 35192-94 (October 1, 1986).

- (i) Amendments to the rules concerning the identification and listing of hazardous waste, in 51 FR 37728-29 (October 24, 1986).
- (j) Amendments to the interim status standards for hazardous waste surface impoundments, in 52 FR 8708-9 (March 19, 1987).
- (k) Technical corrections to the rules concerning burning of hazardous waste fuel and used oil fuel in boilers and industrial furnaces, in 52 FR 11821-22 (April 13, 1987).
- (l) Technical corrections to the definition of solid waste, in 52 FR 21306-7 (June 5, 1987).
- (m) Amendments to the rules concerning the development of corrective action programs for hazardous waste land disposal facilities, in 52 FR 23450 (June 22, 1987).
- (n) Correction to the amended rules concerning the development of corrective action programs for hazardous waste land disposal facilities, in 52 FR 33936 (September 9, 1987).
- (o) Amends incorporation by reference of revised manual SW-846, in 52 FR 8072 (March 16, 1987).
- (p) Amendment to rules concerning groundwater monitoring; establishes an Appendix IX list of hazardous constituents, in 52 FR 25942 (July 9, 1987).
- (q) Identification and listing of hazardous wastes; a technical correction concerning identifying that residues in containers or liners are hazardous waste and not the containers, in 52 FR 26012 (July 10, 1987).
- (r) Amendments to the liability requirements for treatment, storage or disposal facilities; allows corporate guarantee and other financial mechanisms to cover liability in 52 FR 44314 (November 18, 1987); and 53 FR 33938 (September 1, 1988) respectively.
- (s) Establishes new standards for permitting miscellaneous hazardous waste management units, in 52 FR 46946 (December 10, 1987).
- (t) Establishes land disposal restrictions for F-listed solvents and dioxin containing wastes; prescribes treatment standards using toxicity characteristic leaching procedures (TCLP), in 51 FR 40572 (November 11, 1986).
- (u) Corrections to the November 7, 1986 regulations concerning land disposal restrictions; the addition of applicable section to both Parts 264 and 265, in 52 FR 21010 (June 4, 1987).
- (v) Amendments pertaining to the November 7, 1986 regulations concerning land disposal restrictions; rescinds non-migration petition authority and establishes "California List", in 52 FR 25760 (July 8, 1987).
- (w) Amendments to the test methods in the July 8, 1987 land disposal restrictions known as the "California List," 52 FR 41295 (October 27, 1987).
- (x) HSWA Codification Rules pertaining primarily to corrective action, in 52 FR 45788 (December 1, 1987).
- (y) Amendments pertaining to the regulations concerning treatability studies in 53 FR 27290 (July 19, 1988).
- (z) Regulations prohibiting the land disposal of the "First Third" of hazardous wastes; assigns treatment standards for wastewaters and nonwastewaters, in 53 FR 31138 (August 17, 1988).
- (aa) Amendments pertaining to regulations governing the modifications of hazardous waste management permits, in 53 FR 37912 (September 28, 1988).

- (bb) Corrections to the September 28, 1988 regulations concerning permit modifications, in 53 FR 41649 (October 24, 1988).
- (cc) Clarification of surface impoundment retrofitting requirements as they pertain to closure requirements, in 53 FR 24717 (June 30, 1988).
- (dd) Amendments pertaining to groundwater monitoring and statistical evaluation procedures, in 53 FR 39720 (October 11, 1988).
- (ee) Amendments pertaining to the regulations governing wastes from metal smelting operations; relists potliners and other metal wastes, in 53 FR 35412 (September 13, 1988).
- (ff) Corrections to the August 15, 1986 regulations pertaining to hazardous waste storage and treatment tanks, in 53 FR 34079 (September 2, 1988).
- (gg) Amendment to the September 22, 1986 rules concerning spent pickle liquor, in 52 FR 28697 (August 3, 1987).
- (hh) Amendments to the rules concerning the identification and listing of hazardous waste; deletion of dextran and strontium sulfide from the list in 40 CFR 261.33(f), in 53 FR 43878 and 43884 (October 31, 1988).
- (ii) Technical corrections; identification and listing of hazardous waste; 40 CFR Part 261, in 53 FR 13382 (April 22, 1988).

2. Rule 340-101-032 is proposed to be deleted as follows:

**[Hazardous waste from specific sources.**

340-101-032 The following hazardous wastes are added to and made a part of the list of hazardous wastes in 40 CFR 261.32:

KO88 . . . spent potliner from primary aluminum  
reduction - Hazard code: R, T]

3. Rule 340-101-033 is proposed to be amended as follows:

**Additional hazardous wastes.**

340-101-033 (1) The residues identified in sections (2) and (3) of this rule are hazardous wastes and are added to and made a part of the list of hazardous wastes in 40 CFR 261.33.

(2) Any residue, including but not limited to manufacturing process wastes and unused chemicals that has either:

(a) A 3% or greater concentration of any substance or mixture of substances listed in 40 CFR 261.33(e); or

(b) A 10% or greater concentration of any substance or mixture of substances listed in 40 CFR 261.33(f).

(3) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water, of either:

(a) A residue identified in subsection (2)(a); or

(b) A residue identified in subsection (2)(b).

(4) The wastes identified in subsections (2)(a) and (3)(a) of this rule are identified as acutely hazardous wastes (H) and are subject to the small quantity exclusion defined in 261.5(e).

(Comment: Sections (2) and (3) of this rule shall be applied to a

manufacturing process waste only in the event it is not identified elsewhere in this Division, but prior to application of section (5) of this rule.)

(5) (a) A pesticide residue or pesticide manufacturing residue is a toxic hazardous waste if a representative sample of the residue exhibits a 96-hour aquatic LC<sub>50</sub> equal to or less than 250 mg/l.

(b) A pesticide residue or pesticide manufacturing residue identified in subsection (5) (a) of this rule but not in 40 CFR 261.24 or listed elsewhere in Subpart D of 40 CFR Part 261, has the Hazardous Waste Number of X001 and is added to and made a part of list of hazardous wastes in 40 CFR 261.31.

(6) (a) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates identified in subsection (6) (b) this rule are added to and made a part of the list in 40 CFR 261.33(e):

(b) P999. . . .Nerve agents (such as GB (Sarin) and VX).

4. Rule 340-101-034 is proposed to be deleted as follows:

[Basis for listing hazardous waste.

340-101-034 (1) The waste identified in section (2) of this rule is hereby added to and made a part of Appendix VII: Basis for Listing Hazardous Wastes to 40 CFR Part 261.

(2) Hazardous	Hazardous constituents
<u>Waste No.</u>	<u>for which listed</u>

K088. . . . . cyanide]

5. Rule 340-104-147 (4) is proposed to be amended as follows:

Liability requirements.

340-104-147 (1) This rule amends the requirements of 40 CFR 264.147.

(2) The phrase ". . .in one or more States" at the end of 40 CFR 264.147(a) (1) (ii) is deleted and replaced with the phrase ". . . in Oregon."

(3) The phrase ". . . in one or more states" at the end of 40 CFR 264.147(b) (1) (ii) is deleted and replaced with the phrase ". . . in Oregon."

[(4) The provisions of 40 CFR 264.147(b) (4) are deleted.]

6. Rule 340-104-314 is proposed to be deleted as follows:

[Prohibition on land disposal of ignitable wastes.

340-104-314 (1) Except as may be permitted by sections (2) and (3) of this rule or by 40 CFR 264.314(b) (1) to 264.314(b) (4) an owner or operator shall not place in a land disposal unit any liquid waste or the

free-liquid portion of any liquid/solid waste mixture if such mixture contains in excess of 20% free liquid, if the waste was initially generated as a liquid or as a liquid/solid mixture and is identified as a hazardous waste only because it is listed on the basis of or meets the characteristic of ignitability (I).

(Comment: These wastes include but are not limited to those having EPA Hazardous Waste Numbers D001, F003, U001, U002, U031, U055, U056, U057, U092, U110, U112, U113, U117, U124, U125, U154, U161, U171, U186, U213 and U239.)

(2) The generator and owner or operator may apply for an exemption from section (1) of this rule for a specific waste if he can demonstrate that:

(a) The disposal will not pose a threat to public health or the environment due to the properties or quantity of the waste, characteristics of the landfill, the proposed disposal procedure and other relevant circumstances;

(b) The waste generator has taken all practicable steps to eliminate or minimize the generation of the waste and to recover, concentrate or render the waste non-hazardous; and

(c) There is no reasonably available means of beneficial use, reuse, recycle, reclamation or treatment.

(3) Upon receipt of a request for an exemption, the department shall make a tentative determination to approve or deny the request within thirty (30) days of receipt. The generator and owner or operator shall have thirty (30) days from the date of tentative denial to appeal the denial to the Department. The Department shall make a final determination within ninety (90) days of the original request if a timely appeal has been filed.

(Comment: The intention of this rule is to disallow the landfilling of solids formed by soil stabilization of liquids. This rule does not pertain to liquids which become mixed with soil or other debris as the result of a spill or to lab packs as defined in 40 CFR 264.316.)]

7. 340-105-030 is proposed to be amended as follows:

**Conditions applicable to all permits.**

340-105-030 (1) The phrase ". . . the appropriate Act . . ." in the second sentence of 40 CFR 270.30(a) is deleted and replaced with the phrase ". . . ORS Chapter [459] 466 and OAR Chapter 340 . . ."

[(2) The provisions of 40 CFR 270.30(1)(2)(ii)(B) are deleted.

(3)(a) The provisions of 40 CFR 270.30(1)(3) are deleted and replaced with subsection (3)(b) of this rule.

(b) Transfers. The permit is personal to the permittee and is non-transferable. A new owner or operator shall comply with the requirements of 340-105-010(2)(d)(B)(iv).]

(2)[(4)](a) The provisions of 40 CFR 270.30(1)(6)(i)

preceding 270.30(1)(6)(i)(A) are deleted and replaced with subsection [(4)] (2) (b) of this rule.

(b) Immediate reporting. The permittee shall immediately report any noncompliance which may endanger health or the environment as soon as he becomes aware of the circumstances, including:

(3)[(5)](a) The provision of 40 CFR 270.30(1)(9) is deleted and replaced with subsection [(5)] (3) (b) of this rule.

(b) Periodic report. A periodic report must be submitted covering facility activities on an appropriate schedule (see rule 340-104-075).

8. 340-105-040 is proposed to be amended as follows:

**Permit transfers.**

340-105-040 (1) The provisions of 40 CFR 270.40 are [deleted] amended as follows:

(a) In the first sentence in 40 CFR 270.40 (b), amend "may be made as a Class 1 modification" to "will be made as a Class 3 modification," delete the phrase "with prior written approval of the Director," and add after " 270.42" the phrase "and the requirements in OAR 340-120-010(2) (a) (A), (b) (B), (b) (C), (c), (e), (g), (h) and OAR 340-120-025 for a treatment or disposal facility. "

[(2) A permit is personal to the permittee and is non-transferrable.

(3) A new owner or operator of a facility shall comply with the requirements of 340-105-010(2) (d) (B) (iv).]

9. 340-105-041 is proposed to be amended as follows:

**[Major] [m]Modifications or revocation and reissuance of permits.**

340-105-041 (1) The phrase " or except when Division 120 applies" is added to the end of and made part of the provision in 40 CFR 270.41(c). [The sentence "If cause does not exist under this Section or 40 CFR 270.41, the Director shall not modify or revoke and reissue the permit" in the first paragraph of 40 CFR 270.41 is deleted.

(2) (a) The provision of 40 CFR 270.41(a) preceding paragraph (a) (1) is deleted and replaced with subsection (2) (b) of this rule.

(b) Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

(3) (a) The provisions of 40 CFR 270.41(a) (3) are deleted and replaced with subsection (3) (b) of this rule.

(b) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued.

(4) The provision of 40 CFR 270.41(b) (2) is deleted.]

(2) The duties of the "Director" as described in 40 CFR 270.42 (a) and (b) shall be assumed by the Director or the Director's designee of the Department of Environmental Quality for Class 1 and Class 2 treatment, storage, or disposal facility permit modifications and Class 3 treatment or storage facility permit modifications.

10. 340-105-042 is proposed to be deleted as follows:

[Minor modifications of permits.

340-105-042 The provisions of 40 CFR 270.42(d) are deleted.]

ZB8227/eqc6atta

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

IN THE MATTER OF AMENDING )  
OAR CHAPTER 340, ) STATEMENT OF NEED FOR  
DIVISION 100, 101, 102, 104 and 105 ) RULEMAKING

STATUTORY AUTHORITY:

ORS 466.020 requires the Commission to:

- (1) Adopt rules to establish minimum requirements for the treatment storage, and disposal of hazardous wastes, minimum requirements for operation, maintenance, monitoring, reporting and supervision of treatment, storage and disposal sites, and requirements and procedures for selection of such sites.
- (2) Classify as hazardous wastes those residues resulting from any process of industry, manufacturing, trade, business or government or from the development or recovery of any natural resources, which may, because of their quantity, concentration, or physical chemical or infectious characteristics:
  - (a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
  - (b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.
- (3) Adopt rules pertaining to hearings, filing of reports, submission of plans and the issuance of licenses.
- (4) Adopt rules pertaining to generators, and to the transportation of hazardous waste by air and water.



NEED FOR THE RULES:

The State of Oregon is currently authorized by the federal government to manage the comprehensive hazardous waste management program mandated by Congress under the Resource Conservation and Recovery Act (RCRA). In order to maintain authorization, the state must adopt new federal rules and repeal any existing state rules which are less stringent, within specified time frames. Loss of authorization would result in a federally-operated program in the state. The Oregon Legislature supports state authorization and has granted the Department and the Commission authority to take any action necessary to maintain Oregon's authorization.

PRINCIPAL DOCUMENTS RELIED UPON:

New federal hazardous waste management rules published in the Federal Register on March 16, 1987; July 9, 1987; July 10, 1987; November 18, 1987; September 1, 1988; December 10, 1987; April 22, 1988; November 7, 1986; June 4, 1987; July 8, 1987; October 27, 1987; August 17, 1988; December 1, 1987; September 28, 1988; July 19, 1988; June 30, 1988; October 11, 1988; September 13, 1988; September 2, 1988; August 3, 1987; October 31, 1988; and October 24, 1988. Existing state rules, OAR Chapter 340, Divisions 100, 101, 102, 104 and 105. These documents are available for review, during normal business hours, at the Department's office, 811 S.W. Sixth Avenue, Portland, Oregon, eighth floor.

FISCAL AND ECONOMIC IMPACT:

Today we are proposing to adopt twenty-two different federal regulations by reference. These regulations pertain to the base Resource Conservation Recovery Act (RCRA) hazardous waste program and to the program for which we will be seeking authorization under the Hazardous and Solid Waste Amendments of 1984 (HSWA).

The regulations related to HSWA have been in effect in Oregon since their promulgation by the EPA. There is, therefore, no new economic impact on the regulated community. The implementation and enforcement of the requirements by the state of Oregon will have fiscal impact on the Department.

- o The land disposal restrictions regulations will be incorporated into our existing compliance program and education/technical assistance program. There is the cost of training staff about the requirements and there will be an added module to compliance enforcement inspections which will lengthen the time it takes to do an inspection. This should increase the cost of an inspection by approximately \$275.00.

- o HSWA codification updates existing regulations with no additional fiscal impact.
- o The surface impoundment retrofitting requirement has no fiscal impact. The facilities in Oregon that this would have applied to chose to close their surface impoundments, so there are no facilities subject to this requirement.

The regulations that are being adopted to update the base RCRA program are a combination of substantive requirements and technical corrections. The technical corrections have no fiscal or economic impact. Several of the substantive requirements, because they will be taking effect for the first time in Oregon, will have an impact. They are:

- o The liability requirements for storage and disposal facilities are broadened. Companies now have an opportunity to satisfy this requirement with a Corporate Guarantee. In effect this can result in a substantial financial savings to companies that can qualify for the Corporate Guarantee. The savings would be based on the cost of liability insurance for a particular industry for a particular period of time.
- o The new regulations for RCRA permit modifications streamline the process and eliminate substantial bureaucracy for all modifications except Class 3 or very significant changes to a facility's permit. Overall, this results in a reduced fiscal impact on the agency and less economic burden on a permitted facility.
- o The treatability studies regulations allow a company to conduct a study without acquiring a facility permit. This has a positive economic impact on the regulated community and potentially reduces the fiscal impact on the agency. A treatment permit application fee is \$70,000.
- o The listing of certain wastes from the metal smelting industry has a potential negative economic impact on the steel industry in Oregon. These wastes have not been previously listed as hazardous wastes. Therefore, the cost of managing them was potentially less than it will be when the wastes become listed hazardous wastes. There is a minor fiscal impact to the agency since there is a possibility of a few new generators of hazardous wastes being added to the current universe of

Attachment B  
Agenda Item:  
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generators. The approxmiate cost of disposal for the  
new steel industry wastes is \$185.00 per ton.

GCEQC6ATTB

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: April 25, 1989

TO: Environmental Quality Commission

FROM: Debi Sturdevant, Hazardous and Solid Waste Division

SUBJECT: Agenda Item No. \_\_\_\_\_, June 2, 1989, EQC Meeting  
Hearings Officer's Report on Proposed Rule Amendments

A public hearing was held at 9:00 a.m. on April 19, 1989 to receive testimony on proposed amendments to hazardous waste rules (Oregon Administrative Rules Chapter 340, Divisions 100, 101, 102, 104 and 105.

Three members of the public attended the hearing but no oral testimony was given.

Tom Zelenka, of Schnitzer Steel Industries, Inc., submitted written testimony on behalf of Cascade Steel Rolling Mills, Inc. The testimony expresses their concern with the transfer of authority for the "first third land ban" from the Environmental Protection Agency to DEQ. The steel industry feels EPA erred in adopting the "first third land ban" and they are currently working on these issues with EPA. They fear that a transfer of authority would disrupt the progress of this dialogue and negatively impact the steel industry.

Attachments: 1. Attendance list  
2. Testimony by Cascade Steel Rolling Mills, Inc.

Debi Sturdevant:ds  
229-6590  
4-25-89

ATTENDANCE LIST

Date: April 19, 1989

Hearing: Proposed amendments to OAR 340 Divisions  
100, 101, 102, 104 & 105. DEQ

NAME & ADDRESS

REPRESENTING

Janet Payne  
Occ Health: Kaiser  
7201 N Interstate PHD 97217  
Tom Cusack

Kaiser Permanente  
DEQ, HSW Division

Elaine Russel

Reed Environmental

Gary McAuley

SUNWEST Energy

## TESTIMONY

by

CASCADE STEEL ROLLING MILLS, INC.

McMinnville, Oregon

April 19, 1989

My name is Tom Zelenka, Manager, Governmental and Legislative Affairs, for Schnitzer Steel Industries, Inc. I am here today to present testimony on behalf of Cascade Steel Rolling Mills, Inc. (CSR), concerning adoption of rules by the Oregon Environmental Quality Commission restricting the land disposal of certain hazardous wastes and the adoption by reference of the U.S. Environmental Protection Agency's so called "first third land ban" regulations.

### General Background

CSR is located in McMinnville, Oregon - and just recently celebrated its 20th birthday. It has been part of Schnitzer Steel Industries, Inc. since 1984. CSR is one of two steel "mini-mills" located in Oregon -- that manufacture a variety of steel products, using electric arc furnaces, with 100% recyclable scrap metal as its primary raw material.

We are a major market end user of recycled scrap metal in Oregon. The reason we are able to exist here, and not near iron ore deposits, or population market centers, is due to our industry's ability to utilize 100% scrap metal for our production. Nationwide, mini-mills now account for almost 37% of all steel produced in the U.S.

There are a number of positive objectives being met with this process of recycling scrap metal. First of all, it reduces the demand and depletion of virgin natural resources. Second, through this process significant energy savings are achieved. Third, it provides real markets for recycled products - and without markets any mandated percentage of recycling is meaningless. Fourth, without this process, unquestionably higher levels of scrap metals would find their way into our landfills and onto vacant lots. And, fifth, the steel manufacturing industry provides a high wages sector to our economy. They're real jobs, in basic industry -- which is key to Oregon's diversification.

### What does CSR Make?

CSR manufactures a variety of high quality steel products for both industrial and agricultural applications, including reinforcing bar, flats, steel rounds, studded T fence posts and grape stakes for vineyards.

Although CSR markets in eleven western U.S. states, our primary market is

California. It is a highly competitive market, due in part to the heavy overseas competition, which now claims 20 % of the U. S. market. Success is often measured in terms of pennies, not dollars.

### Hazardous Substances

We do not, as is typical, add hazardous materials into our production cycle - and emerge with hazardous waste. Rather, at CSRM we melt down over 300,000 tons of recycled scrap metal annually, (which is itself not hazardous), and produce approximately 300,000 tons of finished product. From this recycling of the scrap metal, there is generated approximately 4,000 tons of K061 electric arc furnace dust.

That is, after the scrap metal is melted down in our furnace, the residue collected from our efficient air emission control system is K061, which is defined as a hazardous waste.

The irony is that while we are a large generator of hazardous waste -- it's the result of pursuing recycling and comes from material that is not itself categorized as hazardous. Try to envision the abandoned cars, the old appliances, and other rusting hulks littered on the streets, vacant lots and landscape.

### What Happens to the K061?

The treatment, storage and disposal of K061 is currently regulated under EPA regulations, now being proposed for adoption by the EQC. K061 is a hazardous waste that was included by EPA under its so-called "first third land ban." This land ban requires pre-disposal treatment, either chemical stabilization or high temperature thermal recovery, depending on the level of the zinc content in the dust, prior to land disposal at an approved hazardous waste landfill, such as the one at Arlington, Oregon.

The EPA rules were adopted August 17, 1988. Since their adoption the steel industry, and CSRM specifically, have been at odds with the EPA concerning a number of conclusions reached and evaluations made by EPA regarding the treatment standards, the availability of treatment capacity, and alternative means of achieving EPA's objectives. Key issues: the mandate that K061 must receive "chemical stabilization" effective August 17, 1988 prior to any land disposal and must receive "thermal recovery" effective August 1990, if the zinc content of the K061 exceeds 15%.

How the EQC adopts the EPA rules, then, and how it approaches the upcoming deadlines -- and technologies needed to obtain the treatment capacity called for in these rules (being adopted by reference only) -- is extremely critical to CSRM's future.

### Concerns With EQC Rule Adoption

Our purpose today in discussing these issues with you is not to say DEQ should not take over the regulation, from EPA. However, we do want you to understand

that we believe EPA erred in adopting the "first third land ban" - and as the steel industry is in the midst of working through these issues with EPA, we are concerned about the transfer of authority and the impact this could have on the ability of CSRSM to meet the August 1990 deadline imposed in the rule being adopted by reference.

A number of our concerns cannot be answered or addressed today. However, we do want to highlight these concerns to you -- and to perhaps encourage your understanding and sensitivity to these items. These issues are as follows:

--Stabilization technology for K061 is not interchangeable with other waste streams. Treatment of K061 is not an "off the shelf" technology.

--The numerical treatment standards should not be enforced at this time; and should provide a variance until treatment capacity is available.

--EPA's list of existing treatment vendors and treatment capacity is seriously flawed, and should not be adopted or recognized by the DEQ as valid or binding upon generators.

--In adopting EPA rules governing "first third land ban", the EQC should insure that it has full authority to provide industry with variances from treatment standards and from deadlines for treatment.

--Compliance measures have not been adequately identified. How will DEQ measure or enforce compliance? What's DEQ's posture towards existing EPA direction to its regions and field offices concerning enforcement of the "first third land ban" regulations?

--How will the EQC adoption of this rule affect your definition of regulation of recycled K061?

--How will adoption of the this rule by the EQC affect the "indigeneous" rule? (American Mining Congress case)

--How is the "fertilizer" exemption dealt with in the EQC action before you?

--Would the EQC, in adopting this rule, have the ability to reconsider requiring either chemical stabilization or thermal recovery as equal means of meeting the "first third land ban" requirement?

--How would the EQC handle requests for extensions or variances or requests for interim status to allow additional time for storage?

### Summary

CSRSM urges you to recognize the implications of the EQC accepting a transfer of authority concerning the "first third land ban". The steel industry is in the midst of seeking clarifications about the EPA rule, we're seeking a recognition of some of the false interpretations and evaluations of information the EPA used in making its final rule, and there are multiple efforts by CSRSM and the steel industry at large in seeking treatment capacity



to meet the new standards, while being able to stay alive and competitive in a world market place.

Your attention and consideration of these concerns would be appreciated.

I'd be glad to answer any questions you might have or provide you additional information at a later time.

Attachment D  
Agenda Item:  
6/2/89 EQC Meeting

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: April 26, 1989

TO: Environmental Quality Commission

FROM: Jan Whitworth, Manager, Hazardous Waste  
Section

SUBJECT: Response to Comments Summary

Comment:

A transfer of authority for regulating K061 waste streams generated by the steel industry from EPA to the DEQ would disrupt the progress of dialogue between the industry and EPA and negatively impact the steel industry.

Department's Response:

The steel industry raises questions about the national policy for managing K061 wastes. By adopting the rule, the Department may participate in the resolution of the issues raised by the steel industry. Adoption of the "First Third" land ban restrictions gives the Department dual authority with EPA to regulate K061 waste streams. The Department will have primary authority after state authorization occurs. Therefore, the industry should be working with both EPA and the state to resolve any concerns, rather than only with EPA.

Comment:

Stabilization technology for K061 is not interchangeable with other waste streams. Treatment of K061 is not an "off the shelf" technology.

Department's Response:

The Department does not entirely agree. "Stabilization" of K061 means chemically binding together the hazardous constituents in the wastes in order to reduce their leachability. The Department understands that K061 may be mixed with concrete to meet the standard, since K061 waste is currently being disposed at Chem-Security Systems, Inc. after stabilization. Therefore, the Department disagrees with the comment since concrete may be obtained "off the shelf."

Comment:

The numerical treatment standards should not be enforced at this time; and should provide a variance until treatment capacity is available.

Department's Response:

"Treatment standards" pertain to the maximum numerical concentrations of heavy metals that a K061 waste stream may contain prior to landfilling. The treatment standards are currently in effect in Oregon. The standards were established under HSWA and became effective August 8, 1988 and November 8, 1988. Initially, the courts stayed those standards; however, they since been reestablished. Effective August 8, 1990, the treatment standard for K061 waste containing 15 percent or more zinc will be "no land disposal" through high temperature recovery of the metals. At this time, only EPA has authority to issue a variance from the treatment standards.

Comment:

EPA's list of existing [K061, ed. note] treatment vendors and treatment capacity is seriously flawed, and should not be adopted or recognized by the DEQ as valid or binding upon generators.

Department's Response:

The Department does not propose to adopt a list of vendors. The treatment standards set by rule for K061 must be met, irrespective of any list of hazardous waste treatment vendors, or their capacity to treat K061 wastes.

Comment:

In adopting EPA rules governing "first third land ban", the EQC should ensure that it has full authority to provide industry with variances from treatment standards and from deadlines for treatment.

Department's Response:

Adoption of the HSWA "first third land ban" regulations will allow the DEQ to implement the regulations. However, final authority to issue variances will likely remain with EPA, although the Department may be involved in processing any variance applications.

Comment:

Compliance measures have not been adequately identified. How will DEQ measure or enforce compliance? What's DEQ's posture towards existing EPA direction to regions and field offices concerning enforcement of the "first third land ban" regulations?

Department's Response:

The DEQ will inspect generators and treatment, storage and disposal facilities to determine compliance with the land ban regulations. Violations of the regulations will be addressed using the Department's enforcement authority. It is our understanding that EPA's enforcement of the K061 treatment standards is in abeyance pending resolution of a court case. Therefore, since the Department is not fully authorized to implement the "land ban regulations," the Department would act in concert with EPA and enforce against K061 violations according to mutual agreement with EPA.

Comment:

How will the EQC adoption of this rule affect your definition of regulation of recycled K061?

Department's Response:

The Department's hazardous waste recycling regulations are identical to EPA's. Adoption of the regulation should not affect the definition of recycling with respect to K061.

Comment:

How will adoption of this rule by the EQC affect the "indigenous" rule? (American Mining Congress case)

Department's Response:

The court held that EPA exceeded its authority to regulate secondary materials destined for reuse within an industry's ongoing production process. The Department agrees that

materials being recycled in ongoing production processes should not be regulated. Materials that are returned to the original production process as raw materials are not defined as solid waste; therefore, they should not be regulated as hazardous waste.

Comment:

How is the "fertilizer" exemption dealt with in the EQC action before you?

Department's Response:

The Department encourages waste minimization and recycling of hazardous wastes. Using K061 to manufacture fertilizer is appropriate as long as the final product is chemically equivalent to the commercial grade of fertilizer it replaces.

Comment:

Would the EQC, in adopting this rule, have the ability to reconsider requiring either chemical stabilization or thermal recovery as equal means of meeting the "first Third land ban" requirement?

Department's Response:

No. The Department may not have less stringent regulations than the federal regulations. Thermal recovery of the metals will be required in 1990 for K061 wastes containing 15 percent or more zinc. Chemical stabilization of K061 wastes containing 15 percent or more zinc will not be allowed.

Comment:

How would the EQC handle requests for extensions or variances or requests for interim status to allow additional time for storage?

Department's Response:

Adoption of the "first third land ban" regulation will allow the Department to implement the regulations. However, final authority to authorize variances will remain with EPA, although the Department may be involved in processing the variances.

GC:GC  
EQC6289D

**Department Report: Background Report and Summary of Proposed  
Rules, Amendments and Corrections**

BACKGROUND

The Department is proposing the adoption by reference of several federal regulations, amendments, and corrections promulgated under the Resource Conservation and Recovery Act (RCRA) and Hazardous and Solid Waste Amendment, 1984 (HSWA). The base RCRA regulations promulgated by EPA through December 1987 are not in effect in Oregon and must be adopted by the Department by July 1, 1989, or the Department risks losing authorization. The HSWA regulations promulgated through December 1988 are being implemented in Oregon by EPA. The Department must submit an application for authorization of HSWA regulations by 1991.

Where federal regulations proposed for adoption are more stringent than existing state regulations, those existing state regulations are proposed for deletion to maintain authorization. The state program cannot be any less stringent than the federal program. Furthermore, where an existing Department regulation is equal in intent to the federal rule, the state's rule is proposed to be deleted.

The proposed regulations are further divided into Base RCRA and HSWA and are described and evaluated below according to their effect on Oregon Administrative Rules (OAR). Also included in the evaluation is a preliminary assessment of the regulatory impact on the regulated community and on the Department.

PROPOSED RULES

Base RCRA

REVISED MANUAL SW-846; AMENDED INCORPORATION BY REFERENCE, 52 FR 8072, 3/16/87.

SW-846, Test Methods for Evaluating Solid Waste, provides test procedures to be used to evaluate solid waste to determine whether the waste is a hazardous waste. The manual includes methods for collecting representative samples of solid wastes and for determining ignitability, reactivity, corrosivity, and composition of wastes.

This rule amendment announces the third edition of SW-846 and describes how to obtain the manual, how it differs from the second edition, and amends those sections of the RCRAE-1

regulations that incorporate the 2nd edition. The amendment does not incorporate the third edition into the regulations, however.

Adopting this rule will make the Department's program identical to the federal program.

LIST OF HAZARDOUS CONSTITUENTS FOR GROUNDWATER MONITORING,  
REPLACES APPENDIX VIII WITH APPENDIX IX, 52 FR 25942, 7/9/87.

This rule amends the regulations concerning groundwater monitoring at RCRA treatment, storage and disposal (TSD) facilities. The rule requires an analysis of all the constituents in a new Appendix IX to Part 264 be performed on the groundwater taken from wells surrounding treatment, storage or disposal (TSD) facilities. Previous rules required an analysis of all the constituents in Appendix VIII.

Appendix IX is a shortened version of Appendix VIII (215 versus 380 constituents, respectively), plus an additional 17 chemicals routinely monitored in the Superfund program. Appendix IX was developed because many constituents in Appendix VIII have no testing methods or are unstable in water.

This rule amends 40 CFR 270.14 by requiring identification of the constituents listed in Appendix IX in groundwater rather than those listed in Appendix VIII.

Adopting this rule will make the Department's program identical to the federal program.

IDENTIFICATION AND LISTING OF HAZARDOUS WASTES, 52 FR 26012,  
7/10/87, CORRECTION TO THE DEFINITION OF HAZARDOUS WASTE.

This technical correction addresses 40 CFR 261.33(c). The correction clarifies that it is the residue remaining in a container or inner liner that may be a hazardous waste, not the container or the liner itself.

The rule deletes the word "container" from the first sentence of 40 CFR 261.33 (c) in the 1984 through 1986 versions of the Code of Federal Regulations (CFR).

Adoption of this rule will make the Department's program identical to the federal program.

LIABILITY REQUIREMENTS FOR HAZARDOUS WASTE FACILITIES; CORPORATE  
GUARANTEE; 52 FR 44314, 11/18/87; AND 53 FR 33938, 9/1/88.

The 11/18/87 rule finalizes the July 11, 1986 (FR 25350-25356) interim final rule which allows TSD facilities to use a corporate guarantee as an additional liability assurance mechanism. The rule was promulgated to provide relief for facilities that have had difficulties obtaining liability assurance to cover bodily injury or property damage to a third party resulting from accidents at the facility. The rule applies to corporations that are incorporated in and outside the United States. Specifically, 40 CFR 264.147, 264.151 and 265.147 are affected.

In 1987, the Department adopted the July 11, 1986 interim final financial responsibility rule. Therefore, the Department is required to adopt this final rule to maintain authorization.

The 9/1/88 rule amends 40 CFR 264.147, 264.151, 265.141, and 265.147, liability coverage for interim status facilities, by providing other financial mechanisms that may be used for liability coverage. They are letters of credit, surety bonds, trust funds, and guarantees which may be provided by firms that are not the direct corporate parent of the owner or operator of the facility.

The proposed amendments affect the Department's regulation, OAR 340-104-147 (4), which is deleted because it prohibits facilities from using a surety bond for liability coverage. The Department sees no compelling reason to maintain this prohibition.

Adopting the proposed amendments and deleting the Department's rule will make the Department's program identical to the federal program.

HAZARDOUS WASTE MISCELLANEOUS UNITS, 52 FR 46946, 12/10/87.

EPA's regulations describe design and operating standards for specific types of treatment, storage, and disposal units. These include containers, tanks, surface impoundments, waste piles, land treatment units, landfills, incinerators, underground injection wells, and research development and demonstration (R&D) units. There are other technologies to manage hazardous waste, and this rule lists a new set of standards under Part 264 that will allow permits to be issued for hazardous waste management units that are not



presently defined in RCRA. This rule adds a new section to Part 264, 40 CFR 264.600, Subpart X, Miscellaneous Units. "Miscellaneous unit" is defined as a hazardous waste management unit that does not fit the definition of container, tank, landfill, incinerator, surface impoundment, waste pile, land treatment system, underground injection wells, and R&D units.

Adopting the federal rule will make the Department's program identical to the federal program.

**TECHNICAL CORRECTIONS; IDENTIFICATION AND LISTING OF HAZARDOUS WASTE (SUPERSEDES REVISION CHECKLIST 29), 53 FR 13382, 4/22/88.**

This rule corrects typographical errors and misspellings on the list of commercial chemical products that are hazardous wastes when discarded (40 CFR 261.33 (e) and (f) and amends the lists of hazardous constituents in Appendices VIII and IX by adding hazardous waste codes to the constituents that are the same as those listed in 40 CFR 261.33 (e) and (f).

Adopting this rule will make the Department's program identical to the federal program.

**RCRA PERMIT MODIFICATIONS FOR HAZARDOUS WASTE MANAGEMENT FACILITIES, INCLUDING TRANSFERS; 53 FR 37912, 9/28/88.**

This rule replaces the current permit modification procedures in 40 CFR 270.40, 270.41, and 270.42 and establishes new procedures for modifying hazardous waste management permits. The new procedures were developed to give owners and operators of facilities more flexibility in modifying existing permit conditions, to provide for greater public notification, and to speed up the approval process if no public concern exists. Also, the rule allows temporary authorization of certain categories of activities to occur without public notice. The rule only applies to modifications requested by a permittee and not to those modifications initiated by the Department. For example, the permittee may request to add new wastes or processes and may be temporarily authorized to do so without public notice. This was a major modification under the old rules, and the Department was required to receive a permit modification and conduct a public notice before the facility could handle new wastes.

This rule classifies permit modifications into three (3) categories based upon the complexity of the modification.

Class 1 modifications are routine changes, ranging from correcting typographical errors in the permit to changing reporting frequency. The middle range modifications, Class 2, address frequent changes needed to maintain a facility's capability to manage wastes or to conform with new regulatory requirements. The Class 2 modification process contains a default provision that allows the permittee to begin constructing the modification if the Department does not respond to the modification request within 120 days of receipt of the request. Class 3 modifications are major changes to the facility or to its operations. Class 3 modifications do not contain the default provision; however, both Class 2 and Class 3 require public notices except when the Department grants temporary authorization for a change to occur.

The new federal rule requires the permittee to notify every person on a Department developed mailing list of the proposed permit modification, and lists and classifies examples of permit modifications. As discussed, the rule also grants temporary authorization (maximum of 180 days) to facilities to implement certain Class 2 or Class 3 modifications without a public hearing.

OAR 340-105-040, OAR 340-105-041, and OAR 340-105-042 are affected by this rule.

The Department currently prohibits the transfer of permits (OAR 340-105-040) unless certain provisions are followed. The Department proposes to amend OAR 340-105-040 to allow permit modifications to occur under the federal rule, 40 CFR 270.40. However, the Department is adding a provision to 40 CFR 270.40 requiring all permit transfers to be subject to public hearing and review and, in addition, requiring an operational capability assessment and compliance history review of a potential treatment or disposal facility permittee be performed prior to approval of the transfer by the Department. Under the federal permit modification rules proposed for adoption, permit transfers are a Class 1 minor modification and may be approved by the Department without public review or comment or a capability assessment. The Department believes that a more stringent public review and capability and compliance history assessment of a potential treatment or disposal facility permittee are needed to maintain consistency with the language in OAR Chapter 340, Division 120 facility siting requirements.

The Department's OAR 340-105-041(1) deletes specific wording ("..cause does not exist under this section ...

the Director shall not modify or revoke...permit") from the first paragraph in 40 CFR 270.41. The wording allows the Director to modify, revoke and reissue a permit if causes exist that are defined in the regulations. The Department sees no compelling reason to retain OAR 340-104-041(1) and proposes to delete it allowing the Director to modify, revoke or reissue permits for the causes defined in the regulations.

The Department also deletes 40 CFR 270.41(a) in OAR 340-105-041(2)(a). 40 CFR 270.41(a) defines the causes for modifying permits but not the causes for revoking or reissuing a permit unless the permittee agrees or requests revocation or reissuance. In place of 40 CFR 270.41 (a), the Department's present rule eliminates any reference to the permittee agreeing to or requesting that a permit be revoked and reissued. The Department proposes to delete OAR 340-105-(2)(a) and (2)(b), thereby allowing permittees the option under 40 CFR 270.41 (a) of requesting that their permits be revoked or reissued, and entitling them to due process in case of disagreement with a Department permit revocation action.

40 CFR 270.41(a)(3) was deleted by OAR 340-105-041(3)(a). 40 CFR 270.41(a)(3) addresses permit modifications which are required due to new statutory requirements or regulatory changes. The proposed rule prescribes the conditions under which permits may be modified to include new regulatory changes. The wording used in OAR 340-105-041(3)(b) in place of the wording in 40 CFR 270.41(a)(3) simply addresses changes in "standards", or "regulations", or "judicial decisions" and does not include the "conditions" contained in 40 CFR 270.41(a)(3). The Department proposes to delete OAR 340-105-041(3)(a) to retain the conditions in 40 CFR 270.41 (a)(3).

40 CFR 270.41(b)(2) is deleted by OAR 340-105-041(4). 40 CFR 270.41(b)(2) list by referencing 40 CFR 270.43 the causes for revoking and reissuing a permit and reference the reasons described in 40 CFR 270.30 (1)(3) for transferring permits. However, in OAR 340-105-030(1) the Department deletes in 40 CFR 270.30 the wording "the appropriate Act" as it pertains to the federal Congressional Acts and replaces it with "ORS Chapter 459 and OAR Chapter 340..". Chapter 459 has been replaced by Chapter 466. The Department proposes to amend OAR 340-105-030 (1) to reference Chapter 466 rather than Chapter 459.

In addition, the Department proposes to delete OAR 340-105-041 (4) because it limits the Director's option under 40 CFR 270.41 (b)(2) to revoke or reissue a permit that is being transferred.

OAR 340-105-030(2) deletes 40 CFR 270.30(1)(2)(ii)(B). In OAR 340-105-030(2) the Department deleted a federal rule that would require the Department to respond to a permittee with a notice to inspect completed modifications within 15 days of receipt of a notice from the permittee that modifications had been accomplished according to the provisions in the permit. Failure to respond would allow the permittee to commence activities in the modified portions of the facility. The Department believes the 15 day time frame to respond to a permittee request for the Department to inspect new modifications is a reasonable expectation and proposes to delete OAR 340-105-030(2).

In OAR 340-105-030(3)(a) and (b) the Department deleted 40 CFR 270.30(1)(3) dealing with permit transfers and refers to the Department's permit transfer requirements in OAR 340-105-010(2)(d)(B)(iv). The requirements for permit transfers in the proposed amendments are equivalent in intent to the Department's provisions. Therefore, the Department proposes to delete OAR 340-105-030(3)(a) and (b).

OAR 340-105-042 deletes 40 CFR 270.42(d), minor permit modifications. This federal rule allows for a change in ownership or operational control of a facility when the Director determines that no change in the permit conditions are necessary and certain procedures are followed. The federal procedures are equivalent in intent to those found in OAR 340-105-010(2)(d)(B)(iv). The remaining minor permit modifications are amended by the new, proposed rule and resemble the Class 1 modifications. The Department believes OAR 340-105-042 duplicates the new federal rule and proposes to delete it.

The Department's siting criteria in Division 120 apply to permit modification processes involving changing from one hazardous waste management method to another and to permit transfers. To ensure there is no confusion regarding the applicability of Division 120 to these modifications, the Department is amending 40 CFR 270.41 (c) in OAR 340-105-041 to include Division 120. 40 CFR 270.41 (c) exempts facilities seeking modifications from meeting any siting standards.

In summary, the Department's current rules concerning permit modifications restrict the Department's flexibility by requiring EQC approval of minor changes to a permit. The new rules allow a facility to make minor Class 1 modifications without EQC approval or approval by Department staff for some modifications. However, under the new rules the Department retains authority to require justification of a facility's determination of a Class 1 modification, and may elevate the modification to a higher class which would require Department approval before it may be implemented. Concerning public notices and review of proposed modifications, the most significant change in the new rule from the previous rule is that a facility rather than the DEQ now has the responsibility to do the public notice (40 CFR 270.42(b) for Class 2; 40 CFR 270.42(c) for Class 3). For Class 1 modifications, the permittee is only required to notify the public after the change is made, although the public may request the Department to review any Class 1 modification to determine if it is appropriately classed.

Adopting the federal permit modification rules will not result in a more stringent program except where Division 120 applies. Several modification provisions are equivalent in intent to current Department regulations. Also, new modification procedures speed up public notice and public review processes, and allow the Department and regulated community more flexibility in dealing with permit modifications.

IDENTIFICATION AND LISTING OF HAZARDOUS WASTE TREATABILITY STUDIES SAMPLE EXEMPTION, 53 FR 27290, 7/19/88.

This rule exempts from permitting requirements generators and owners and operators of testing facilities that conduct treatability studies on waste samples when certain conditions are met. The conditions require the generator or sample collector to not ship more than 2200 lbs. of non-acute hazardous waste; more than 2.2 lbs. of acutely hazardous wastes; or more than 550 lbs. of acute hazardous waste that is contained in contaminated soils or solid wastes, for example. There are recordkeeping and storage requirements as well. The new rule was developed to deal with the time constraints associated with obtaining a RCRA permit, and with RCRA Part B permitting requirements which are too stringent for the purposes intended here.

Adoption of this rule will allow companies to do small-scale bench testing of wastes to determine the wastes'

treatability. Presently, under Department rules, a permit would be required to do testing.

Adoption of this rule will make the Department's program identical to the federal program.

STATISTICAL METHODS FOR EVALUATING GROUNDWATER MONITORING DATA FROM HAZARDOUS WASTE FACILITIES, 53 FR 39720, 10/11/88.

This RCRA regulation amends the 264, Subpart F groundwater monitoring requirements pertaining to the testing methods used to evaluate the statistical presence or increase/decrease of contaminants in groundwater. The rule also finalizes sampling procedures and performance standards designed to minimize errors which may lead to incorrect statistical conclusions. Problems associated with the use of Cochran's Approximation to the Behrens-Fisher Student's t-test (CABF) prompted EPA to establish in this rule five (5) other tests which are more appropriate than the CABF procedure for evaluating groundwater data. The CABF method may result in "false conclusions."

Adoption of this rule will make the program identical to the federal program.

IDENTIFICATION AND LISTING OF HAZARDOUS WASTE, RELISTING CERTAIN WASTES FROM METAL SMELTING OPERATIONS, 53 FR 35412, 9/13/88.

This amendment relists certain wastes from metal smelting operations. The wastes are generated by the copper, lead, zinc, aluminum and ferroalloys industries and consist mainly of sludge, acid plant blowdown slurry from metal production (primary zinc and copper production), emission control dusts and spent potliners containing lead, cadmium, chromium and cyanide complexes (aluminum industry).

The rule also amends the mining waste exclusions found in 40 CFR 261.4(b)(7) that exempt processing wastes from the definition of hazardous waste. The rule states that these wastes do not meet the definition of "processing wastes" and therefore are not exempt from regulation as hazardous wastes.

The EPA initially listed these wastes as hazardous but suspended the listing because of the "Beville Amendment" which excluded these particular wastes from regulation pending the outcome of studies of their hazardous characteristics. Even though the studies are not complete, the courts ordered EPA to relist the wastes.

The Department's rules OAR 340-101-032 and OAR 340-101-034 list spent potliners (K088) from aluminum manufacturing as hazardous waste and are duplicated by the new federal rule. Adopting the federal rule will provide the metal manufacturing industry with federal potliner rules which are clearer than current Oregon rules. Therefore, the Department proposes to delete both OAR 340-101-032 and OAR 340-101-034.

Also, unlike the federal rule in 40 CFR 261.4(b)(7)), the Department does not exempt wastes generated from processing ores (OAR 340-101-004 (2)). The Department will retain its broader authority to regulate processing wastes under its rule while adopting the newly listed (40 CFR 261.33) federal wastes generated by metal manufacturing industries.

With the exception of the Department's regulation of potliners from the aluminum manufacturing industry, adoption of the federal amendment will likely increase the Department's universe of generators because of the addition of five (5) new waste streams to the Department's regulations.

Adoption of this amendment will make the Department's program identical to the federal listing of hazardous wastes from metal manufacturing industries.

#### HSWA

LAND DISPOSAL RESTRICTIONS, 51 FR 40572, 11/7/86 ; 52 FR 21010, 6/4/87. THE EVALUATION BELOW INCLUDES ALL LAND BAN RESTRICTIONS PROMULGATED BY EPA TO-DATE AND DESCRIBED IN HSWA OR OTHER REGULATIONS.

The 11/7/86 rule was the initial land disposal restriction rule. It was followed by 52 FR 21010, 6/4/87; 52 FR 25760, 7/8/87; FR 41295-6, 10/27/87; and 53 FR 31138, 8/17/88 which is listed under "Other Regulations" below.

Since the initial rule was amended by subsequent rules, the Department recommends adopting all land disposal restrictions evaluated here.

The land disposal restrictions were enacted by Congress as part of the provisions in HSWA. The land disposal restrictions prohibit the continued land disposal of untreated hazardous waste and are being phased in beginning with the ban on dioxins and solvents. By May, 1990, EPA will

have banned from landfilling all hazardous wastes unless those wastes meet specified treatment standards. Currently, the restrictions described below are in effect in Oregon and are being implemented by EPA.

The initial (11/7/86) land disposal restrictions address the F listed solvents, F001-F005, and certain dioxin containing wastes, F020, F021, F022, and F023. The restrictions prescribe treatment standards for those wastes using the Toxicity Characteristic Leaching Procedures (TCLP) to determine if they meet certain treatment standards. Those standards must be met before the wastes may be disposed in a RCRA permitted landfill. Generators of the wastes must certify that the wastes have been treated to acceptable standard.

The July 8, 1987 amendment rescinds certain sections of the initial rule. Specifically, 40 CFR 268.42 (b), 262.44 and 268.6 pertaining to non-migration petitions are no longer delegated to the states. Approval of a "non-migration petition" by a state allowed the petitioner to continue land disposing of restricted hazardous wastes as long as the petitioner could demonstrate with a high degree of certainty that the wastes could not migrate from the disposal unit. EPA decided to retain authority for approving non-migration petitions.

The amendment also restricts the land disposal in any state of "California List" wastes. The list is named "California List" because the list was derived from the California hazardous wastes regulation. The list includes PCBs at or above 50 ppm, liquid hazardous wastes or sludge containing arsenic, cadmium, chromium, lead, mercury, nickel, selenium, or thallium above specific concentrations, and hazardous wastes containing halogenated organic compounds (HOC) in total concentrations greater than or equal to 1000 mg/kg, and land disposal of liquid hazardous wastes with a pH less than or equal to two (2.0). No treatment standards for California listed wastes are being prescribed in this rule. EPA expects to establish treatment standards at a later date.

The 10/27/87 rule amends the "California list" (finalized 7/8/87) test methods specified in 40 CFR 268.32(i). The test method determines when a waste is a liquid. The California list regulates mainly liquid hazardous wastes. This amendment incorporates by reference "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." This



publication contains methods for determining if a waste is a liquid (Liquids Paint Filter Test).

Since the California List deals primarily with liquid wastes, OAR 340-104-314 is affected. This Department's rule prohibits land disposal of the free liquid portion of a liquid/solid mixture containing in excess of 20 percent free liquid. A solid material contains a free liquid if liquid drips through a 60-mesh paint filter containing the mixture. OAR 340-104-314 was passed before the federal paint filter test was adopted and will become duplicative when we adopt the new testing methods in the California List rule. Also, disposal of liquids in land disposal units is covered under the federal rule, 40 CFR 264.314. Therefore, we propose to delete OAR 340-104-314.

The 8/17/88 regulations prohibit the disposal of the "First Third" of hazardous wastes and establish treatment standards for wastewaters and nonwastewaters and all residuals from treating the wastewaters and nonwastewaters which contain only the "First Third" wastes. The "First Third" wastes are listed in 40 CFR 268.10. EPA does not establish treatment standards for the P- or U-listed first third substances in 40 CFR 268.10 because they have not yet developed the standards. The wastes, therefore, may continue to be disposed by landfilling until May 8 1990, unless they are subject to the California List. However, a generator desiring to continue land disposing the first third waste must certify in writing that landfilling is the only management method available.

Adoption of these rules will make the Department's program identical to the federal program.

HSWA CODIFICATION RULE 2, 52 FR 45788, 12/1/87.

This rule codifies changes to the existing RCRA regulations that implement RCRA corrective action and permitting at RCRA facilities. Specifically, the rule addresses releases from solid waste management units at or beyond a facility's boundary. It requires facilities seeking permits, or those required to get permits, to include in their permit application all available information about any releases from solid waste management units. Owners or operators of the facilities where releases have occurred must sample and analyze groundwater, landsurface and subsurface strata, surface water, or air. Operators may be required to install monitoring and detection wells when it is determined by the Department that the wells are necessary to complete a RCRA

Facility Assessment (RFA), or where insufficient evidence exists confirming a release.

**SURFACE IMPOUNDMENT RETROFITTING REQUIREMENTS; CLOSURE REQUIREMENTS, 53 24717, 6/30/88.**

HSWA requires that all surface impoundments in existence on November 8, 1984 that qualify for interim status be retrofitted with double liners, a leak detection system, a leachate collection system and groundwater monitoring systems, or stop receiving hazardous wastes by November 8, 1988, and close.

This rule implements the HSWA requirement and establishes closure time frames for both impoundments with and without approved closure plans. No facilities in Oregon are subject at this time to the new retrofitting or closure requirements.

OAR 340-104-228 provides procedures for closure of surface impoundments. This rule is more stringent than the federal closure procedures for interim status and permitted impoundments because it requires the operator to attempt to remove contaminants from the impoundment before closure as a landfill. The federal closure procedures allow the impoundment to close as a landfill without first attempting to remove as much contamination as possible. The Department believes an attempt should be made to remove wastes before they are left in place and the facility closed as a landfill. Thus, the Department's rule will be retained.

**STANDARDS FOR HAZARDOUS WASTE STORAGE AND TREATMENT TANK SYSTEMS, 53 FR 34079, 9/2/88.**

This rule provides clearer wording in the regulations and corrects typographical and other errors in Parts 260, 264, 265, and 270 pertaining to tank systems (the Department adopted the original storage and treatment tank regulations in December, 1987). The original rule sought to regulate "tank systems," including both the tank and especially any ancillary equipment associated with the tank. For the first time, the new tank regulations brought under scrutiny ancillary equipment such as piping, distribution systems, and metering systems, which are used to convey hazardous waste from the point of generation to regulated storage or treatment tanks.

Passage of the original rule initiated numerous concerns from the regulated community that exempt wastewater treatment and elementary neutralization units and their

ancillary equipment were now covered under the new tank regulations.

This amendment to the original tank rule clarifies this misconception by amending 40 CFR 260.10 definitions for both elementary neutralization units and wastewater treatment units by including the term "tank system" in their definitions. Inclusion of the definition of "tank system" ensures that the tank as well as all ancillary equipment is exempt from the rules. Also, the rule clarifies that leak detection systems promptly detect leaks occurring from the primary structure into the secondary containment structure, meaning at the interstitial space between the walls of a double-walled tank, and are not required to detect a leak that occurs outside the secondary containment structure.

Adoption of this rule will make the Department's program identical to the current federal program.

SPENT PICKLE LIQUOR FROM STEEL FINISHING OPERATIONS, 52 FR 28697, 8/3/87.

This amendment to the often amended spent pickle liquor regulations (40 CFR 261.32, K062), corrects an erroneous insinuation in the May 28, 1986 (adopted by the Department May 29, 1987) that the regulation applies to plants that produce iron and steel. On September 22, 1986, EPA corrected the error by stating that it is the steel and iron industries that are affected by the May 28, 1986 rule, and not simply those industries producing iron and steel.

However, the September 22 technical corrections (the Department adopted these in December, 1987) raised more questions from the regulated community. The September 3, 1987 amendment being proposed for adoption states that the K062 listing applies to any plant in the iron and steel industry.

Adoption of this rule will make the Department's program identical to the federal program.

IDENTIFICATION AND LIST OF HAZARDOUS WASTE, REMOVAL OF IRON DEXTRAN AND STRONTIUM SULFIDE FROM THE LIST OF HAZARDOUS WASTES, 53 FR 43878-43884, 10/31/88.

This rule removes dextran and strontium sulfide from the list of commercial chemical products in 40 CFR 261.33(f) that are hazardous wastes when discarded or intended to be discarded. EPA determined that these chemicals do not pose a

Attachment E  
Agenda Item:  
6/2/89 EQC Meeting

substantial threat or significant hazard to human health if not handled as a hazardous waste when discarded.

Adoption of this rule will make the Department's program identical to the federal program.

CORRECTION TO THE PERMIT MODIFICATIONS FOR HAZARDOUS WASTE MANAGEMENT FACILITIES, 53 FR 41649, 10/24/88.

This correction adds in 40 CFR 270.42 in the last entry, in the bottom line, in the right hand column, the number "2".

GC/GJC  
EQCEQC6A

SUMMARY OF FEDERAL RULES PROPOSED FOR ADOPTION

	<u>Federal Rule Proposed</u>	<u>Date Promulgated by EPA</u>	<u>Code of Federal Regulations (CFR)</u>	<u>State Rule/Amended OAR</u>	<u>Base RCRA</u>	<u>HSWA</u>
1.	Revised manual SW-846; Amended Incorporation by Reference, 52 FR 8072.	3/16/87	40 CFR Parts 260 and 270	None	x	
2.	List of Hazardous Constituents for Groundwater Monitoring, Replaces Appendix VIII with Appendix IX, 52 FR 25942.	7/9/87	40 CFR Parts 264 and 270	None	x	
3.	Identification and Listing of Hazardous Wastes, 52 FR 26012; Correction to the Definition of Hazardous Waste.	7/10/87	40 CFR Part 261	None	x	
4.	Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee; 52 FR 44314, and 53 FR 33938 [respectively].	11/18/87 and 9/1/88 respectively	40 CFR Parts 264 and 265	340-104-147(4)	x	
5.	Hazardous Waste Miscellaneous Units, 52 FR 46946	12/10/87	40 CFR Parts 144, 260, 264, and 270	None	x	

6.	Technical Corrections; Identification and Listing of Hazardous Waste, 53 FR 13382	4/22/88	40 CFR Part 261	None	x
7.	Land Disposal Restrictions, 51 FR 40572 and 52 FR 21010; California List Waste Restrictions, 52 FR 25760; California List Waste Restrictions, Technical Corrections, 52 FR 41295; Land Ban Restrictions of "First Third" Wastes, 53 FR 31138.	11/7/86, 6/4/87, 7/8/87, 10/27/87, and 8/17/88 respec- tively.	40 CFR Part 260 et al.	340-104-314	x
8.	HSWA Codification Rule 2; Codifies changes to Corrective Action and Permitting Requirements, 52 FR 45788.	12/1/87	40 CFR Parts 144, 264, 265, 270, and 271	None	x
9.	RCRA Permit Modifications for Hazardous Waste Management Facilities, 53 FR 37912; corrections to the 9/28/88 rules concerning permit modifications, 53 FR 41649.	9/28/88, 10/24/88 respec- tively.	40 CFR Parts 124, 264, 265, and 270	340-105-040, 340-105- 041, and 340-105-042	x
10.	Identification and Listing of Hazardous Waste Treatability Studies Sample Exemption, 53 FR 27290.	7/19/88	40 CFR Parts 260 and 261	None	x
11.	Surface Impoundment Retrofitting Requirements, Closure Requirements, 53 FR 24717.	6/30/88	40 CFR Parts 264 and 265	None	x
12.	Statistical Methods for Evaluating Groundwater Monitoring Data from Hazardous Waste Facilities, 53 FR 39720.	10/11/88	40 CFR Part 264	None	x
13.	Identification and Listing of Hazardous Waste, Relisting Certain Wastes from Metal Smelting Operations, 53 FR 35412.	9/13/88	40 CFR Parts 261 and 302	340-101-032 and 340- 101-034	x

14.	Standards for Hazardous Waste Storage and Treatment Tank Systems, 53 FR 34079.	9/2/88	40 CFR 260, 264, 265, and 270	None	x
15.	Spent Pickle Liquor from Steel Finishing Operations, 52 FR 28697.	8/3/87	40 CFR 261	None	x
16.	Identification and Listing of Hazardous Waste, Removal of Iron Dextran and Strontium Sulfide from the List of Hazardous Wastes, 53 FR 43878-43884.	10/31/88	40 CFR 261 and 302	None	x

GC/EQCATTEA



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: June 2, 1989  
Agenda Item: J  
Division: Water Quality  
Section: Construction Grants

#### SUBJECT:

Construction Grant Rules - Modification to Implement  
Transition to Revolving Loan Fund

#### PURPOSE:

Modifications of the Construction Grant rules are needed to  
allow the Department to phase out the grants program in an  
orderly manner and to facilitate transition to the State  
Revolving Fund Program.

#### ACTION REQUESTED:

- Work Session Discussion
- General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item  for Current Meeting
  - Other: (specify)
- Authorize Rulemaking Hearing
- Adopt Rules
- Proposed Rules Attachment A
  - Rulemaking Statements Attachment C
  - Fiscal and Economic Impact Statement Attachment C
  - Public Notice Attachment B
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
- Proposed Order Attachment
- Approve Department Recommendation
- Variance Request Attachment
  - Exception to Rule Attachment
  - Informational Report Attachment
  - Other: Attachment



Meeting Date: June 2, 1989  
Agenda Item: J  
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DESCRIPTION OF REQUESTED ACTION:

The Department requests the Commission approve the proposed modifications to the Construction Grants Rules (OAR 340-53).

The proposed rule modifications will:

- (1) Provide for preparation of a final list of projects eligible for grant funding;
- (2) Limit projects eligible for grant assistance to those jurisdictions with documented water quality problems (Letter Classes A, B, and C on the final construction grant priority list);
- (3) Require jurisdictions to request by July 17, 1989 placement on the final construction grant priority list;
- (4) Limit total eligible project costs to \$1,500,000 for those projects rated a Letter Class A, B, or C after the FY89 priority list was approved by the Commission on September 9, 1988; and
- (5) Remove the requirement for the Commission to approve the construction grants priority list.

AUTHORITY/NEED FOR ACTION:

<input type="checkbox"/> Required by Statute: _____	Attachment _____
Enactment Date: _____	
<input checked="" type="checkbox"/> Statutory Authority: <u>ORS 468.020</u>	Attachment _____
<input type="checkbox"/> Pursuant to Rule: _____	Attachment _____
<input type="checkbox"/> Pursuant to Federal Law/Rule: _____	Attachment _____
<input type="checkbox"/> Other: _____	Attachment _____
<input checked="" type="checkbox"/> Time Constraints:	

The Final Grants Priority List must be submitted to EPA for approval before the FY90 Federal Fiscal Year begins on October 1, 1989.

Meeting Date: June 2, 1989  
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**DEVELOPMENTAL BACKGROUND:**

<input type="checkbox"/> Advisory Committee Report/Recommendation	Attachment	<input type="checkbox"/>
<input checked="" type="checkbox"/> Hearing Officer's Report/Recommendations	Attachment	<u>D</u>
<input type="checkbox"/> Response to Testimony/Comments	Attachment	<input type="checkbox"/>
<input checked="" type="checkbox"/> Prior EQC Agenda Items:		
EQC Agenda Item J on March 3, 1989	Attachment	<u>E</u>
EQC Work Session Agenda Item 2 on January 19, 1989	Attachment	<u>F</u>
<input type="checkbox"/> Other Related Reports/Rules/Statutes:		
	Attachment	<input type="checkbox"/>
<input type="checkbox"/> Supplemental Background Information	Attachment	<input type="checkbox"/>

**REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:**

The proposed rule modifications will limit the number of jurisdictions eligible to receive a federal grant for construction of municipal sewerage facilities. By limiting grants, the state would increase the ultimate size of the State Revolving Fund, thereby expanding the total pool of money available for loans to jurisdictions for sewerage projects.

Jurisdictions with new projects larger than \$1,500,000 would not be afforded the opportunity to apply for a grant and will be required to seek other financing mechanisms, including the State Revolving Fund. Finance mechanisms other than a grant may not be as desirable and could increase the cost of a project by requiring additional local funding for sewerage works projects.

**PROGRAM CONSIDERATIONS:**

The Construction Grant Program is funded through the Federal Clean Water Act. A portion of the Act provides funding to the states for administration of the program. These administrative funds have a five year use period and although the last grants can be awarded in September 1990, adequate funding will remain to administer them through to completion in 1996. Therefore, no additional funding beyond that provided by the federal government will be necessary to carry the grant program to completion.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

1. The proposed rule modifications have been amended to include a change in the date to request placement on the final grant priority list from June 30, 1989 to July 17, 1989 (OAR 340-53-015 (2)(d)). This change is to allow for 30 days notice for a public hearing after the Commission meeting on June 2, 1989.

After discussions with numerous jurisdictions there appeared to be some confusion about when the eligible cost limitation would be applied and whether a jurisdiction could segment their project to meet the cost limitation. The Department has added wording to OAR 340-53-020 (5) to clarify the intent of the rule limitation.

- a. The Department intends to apply the \$1,500,000 limitation at grant award; projects whose costs increase above \$1,500,000 after grant award will continue to be eligible for full funding.
- b. The cost limitation is to allow grants for small projects from small jurisdictions, while directing other projects to the State Revolving Fund. Allowing segmenting of bigger projects would circumvent this intention and reduce the ultimate size of the State Revolving Fund and should not be allowed.

No other changes than those outlined above have been made to the proposed rules since the Commission authorized a public hearing on March 3, 1989.

2. The Department considered two options in response to Ontario's comment on raising the eligible cost of a project to \$2,500,000:
  - a. Wording could be added to OAR 340-53-020 (5) to allow jurisdictions to reduce or segment a project so the grant eligible costs are below \$1,500,000 at grant award. The change would allow jurisdictions with projects larger than \$1,500,000 and ranked within the funding range after September 9, 1988 to get partial grant funding for a project.

- b. Raise the eligible project costs from \$1,500,000 to \$2,500,000 as requested. Increasing the eligible costs would allow larger projects to be funded with grants, thereby reducing the ultimate size of the State Revolving Fund.

The Department recommends against including either option (a or b) as part of the grant program rules. These modifications would allow larger projects grant funding, thereby increasing the number of potential projects eligible for grant funding and further reducing the ultimate size of the State Revolving Fund program.

3. Limiting eligible project costs to \$1,500,000 was intended to limit further reduction of the State Revolving Fund and allow small jurisdictions a better chance of receiving grant funds. However, restricting eligible jurisdictions by population for new projects placed within the funding range after approval of the FY89 priority list on September 9, 1988 would directly address the small jurisdiction issue.

Some larger projects such as Ontario's would then be eligible for funding. Providing funds to additional projects would reduce the size of the State Revolving Fund, therefore, the Department recommends against a population limit for project funding.

**DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:**

The Department recommends that the Commission approve the proposed rule modifications for the construction grants program contained in Attachment A and described in Alternative 1.

This action would allow the construction grant program to continue toward a smooth transition to the State Revolving Fund. The preparation of a final construction grant priority list would give jurisdictions planning sewerage works projects a clear understanding of whether they could receive a grant. The Department believes that this alternative is the best approach for providing grant funds to small jurisdictions and those already in the process of obtaining a grant, while not significantly diminishing the ultimate size of the State Revolving Fund.

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**CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:**

The alternative outlined in this staff report would be consistent with the Water Quality Act of 1987 (Clean Water Act Amendments) and with Oregon Revised Statutes. The 1987 Legislature gave the Department the authority to establish a State Revolving Fund, but did not specify how the Department should facilitate transition from the construction grant program to the revolving fund program. At the staff level, the Department's efforts have been directed at maximizing the revolving fund, subject to the recognition that some remaining projects should be financed with construction grants.

**ISSUES FOR COMMISSION TO RESOLVE:**

The written comment by Ontario requested an increase in the eligible project costs allowed for grant funding and to restrict funding to jurisdictions under 10,000 people. The issues to be resolved by the Commission are:

1. Determine if projects with larger eligible costs should be considered for grant funding.
2. Determine whether limiting jurisdictions to eligible project costs of \$1,500,000 is sufficient to meet the intent of providing grants to small jurisdictions, or that limiting grant funding to a certain size of jurisdiction is needed.

**INTENDED FOLLOWUP ACTIONS:**

Prepare and mail the proposed final construction grant priority list 30 days before the public hearing.

Hold a public hearing on the draft Final Construction Grant Priority List July 17, 1989.

Prepare and mail the final official construction grant priority list after the comment period ends on July 17, 1989.

Meeting Date: June 2, 1989  
Agenda Item: J  
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Approved:

Section:

George F. Davis

Division:

Mr. Miller

Director:

Phyllis Taylor

Report Prepared By: Richard J. Kepler

Phone: 229-6218

Date Prepared: May 11, 1989

RJK:crw  
CG\WC4973  
May 11, 1989

MUNICIPAL WASTE WATER  
TREATMENT WORKS  
CONSTRUCTION GRANTS  
PROGRAM

DIVISION 53

DEVELOPMENT AND MANAGEMENT OF THE STATEWIDE SEWERAGE WORKS  
CONSTRUCTION GRANTS PRIORITY LIST

PURPOSE

340-53-005

The purpose of these rules is to prescribe procedures and priority criteria to be used by the Department for development and management of a statewide priority list of sewerage works construction projects potentially eligible for financial assistance from U.S. Environmental Protection Agency's Municipal Waste Water Treatment Works Construction Grants Program, Section 201, Public Law 95-0217.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80

DEFINITIONS

340-53-010

As used in these regulations unless otherwise required by context:

- (1) "Department" means Department of Environmental Quality. Department actions shall be taken by the Director as defined herein.
- (2) "Commission" means Environmental Quality Commission.
- (3) "Director" means Director of the Department of Environmental Quality or his authorized representatives.
- (4) "Municipality" means any county, city, special service district, or other governmental entity having authority to dispose of sewage, industrial waste, or other wastes, any Indian tribe or authorized Indian Tribal Organization or any combination of two or more of the foregoing.
- (5) "EPA" means U.S. Environmental Protection Agency.

- (6) "Treatment Works" means any facility for the purpose of treating, neutralizing or stabilizing sewage of industrial wastes of a liquid nature, including treatment or disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishings thereof and their appurtenances.
- (7) "Grant" means financial assistance from the U.S. Environmental Protection Agency Municipal Waste Water Treatment Works Construction Grants programs as authorized by Section 201, Public Law 95-217 and subsequent amendments.
- (8) "Advance" means an advance of funds for a Step 1 or Step 2 project. The advance is equal to the estimated allowance which is expected to be included in a future Step 3 grant award. An advance is made from funds granted to Oregon by EPA; it is not a direct grant by EPA to a municipality.
- (9) "Project" means a potentially fundable entry on the priority list consisting of Step 3 or Step 2 plus 3 treatment works or components or segments of treatment works as further described in OAR 340-53-015(4).
- (10) "Treatment Works Component" means a portion of an operable treatment works described in an approved facility plan including but not limited to:
  - (a) Sewage treatment plant;
  - (b) Interceptors;
  - (c) Sludge disposal or management;
  - (d) Rehabilitation;
  - (e) Other identified facilities.
  - (f) A treatment works component may, but need not, result in an operable treatment works.
- (11) "Treatment Works Segment" means a portion of a treatment works component which can be identified in a contract or discrete sub-item of a contract and may, but need not, result in operable treatment works.
- (12) "Priority List" means all projects in the state potentially eligible for grants listed in rank order.
- (13) "Fundable Portion of the List" means those projects on the priority list which are planned for a grant during the current funding year. The fundable portion of the list shall be not exceed the total funds expected to be available during the current funding year less applicable reserves.
- (14) "Facilities Planning" means necessary plans and studies which directly relate to the construction of treatment works. Facilities planning will demonstrate the need for the proposed



- facilities and that they are cost-effective and environmentally acceptable.
- (15) "Step 1 Project" means any project for development of a facilities plan for treatment works.
  - (16) "Step 2 Project" means any project for engineering design of all or a portion of treatment works.
  - (17) "Step 3 Project" means any project for construction or rehabilitation of all or a portion of treatment works.
  - (18) "Eligible Project Costs" means those costs which could be eligible for a grant according to EPA regulations and certified by the Department and awarded by EPA. These costs may include an estimated allowance for Step 1 and/or Step 2 project.
  - (19) "Innovative Technology" means treatment works utilizing conventional or alternative technology not fully proven under conditions contemplated but offering cost or energy savings or other advantages as recognized by federal regulations.
  - (20) "Alternative Technology" means treatment work or components or segments thereof which reclaim or reuse water, recycle wastewater constituents, eliminate discharge of pollutants, or recover energy.
  - (21) "Alternative System for Small Communities" means treatment works for municipalities or portions of municipalities having a population of less than 3,500 and utilizing alternative technology as described above.
  - (22) "Funding Year" means a federal fiscal year commencing October 1st and ending September 30th.
  - (23) "Current Funding Year" means the funding year for which the priority list is adopted.
  - (24) "State Certification" means assurance by the Department that the project is acceptable to the state and that funds are available from the state's allocation to make a grant award.
  - (25) "Small Community" means, for the purposes of an advance of allowance for Step 1 or Step 2, a municipality having less than 25,000 population.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef.  
7-27-82

PRIORITY LIST DEVELOPMENT

340-53-015

The Department will develop a final statewide priority list of projects potentially eligible for a grant:

- (1) The final statewide priority list shall include:
  - (a) Those projects from the approved FY89 construction grants priority list; and
  - (b) Those projects where a community has requested, before June 30, 1989, placement on the final construction grants priority list and the project is determined to be eligible for funding by the Department.
- (2) The statewide priority list will be developed [prior to the beginning of each funding year] utilizing the following procedures:
  - (a) The Department will determine and maintain sufficient information concerning potential projects to develop the statewide priority list.
  - (b) The Department will develop a proposed final priority list utilizing criteria and procedures set forth in this section.
  - (c) (A) The Department shall distribute the proposed priority list to all interested parties for review. A public hearing will be held concerning the proposed priority list. [prior to Commission adoption.] Public notice and a draft priority list will be provided to all interested parties at least thirty (30) days prior to the hearing. Interested parties include, but are not limited to, the following:
    - (i) Municipalities having projects on the priority list;
    - (ii) Engineering consultants involved in projects on the priority list;
    - (iii) Interested state and federal agencies;
    - (iv) Any other persons who have requested to be on the mailing list.
  - (d) The Department shall allow until July 17, 1989 for review and public comments to be submitted.
    - (A) During the comment period any interested party can request the Department to:

(i) Include a problem not identified on the proposed list; or

(ii) Reevaluate a problem on the proposed priority list.

(e) The Department shall consider all requests submitted during the comment period and at the public hearing before establishing the official statewide final construction grants priority list.

(f) The Department shall distribute the official final construction grants priority list to all interested parties.

(g) If an affected party does not agree with the Department's determination on the final priority list, then the interested party may within 15 days of mailing the final list file an appeal to present their case to the Director. The appeal will be informal and will not be subject to contested case hearing procedures.

[(B) Interested parties will have an opportunity to present oral or written testimony at or prior to the hearing.]

[(d) The Department will summarize and evaluate the testimony and provide recommendations to the Commission.]

[(e) The Commission will adopt the priority list at a regularly scheduled meeting.]

(2) (a) The priority list will consist of a listing of all projects in the state potentially eligible for grants listed in ranking order based on criteria set forth in Table 1. Table 1 describes five (5) categories used for scoring purposes as follows:

- (A) Project Class,
- (B) Regulatory Emphasis,
- (C) Stream Segment Rank,
- (D) Population Emphasis,
- (E) Type of Treatment Component or Components.

(b) The score used in ranking a project consists of the project class identified by letter code plus the sum of the points from the remaining four categories. Projects are ranked by the letter code of the project class with "A" being highest and within the project class by total points from highest to lowest.

(3) The priority list entry for each project will include the following:

- (a) Priority rank consisting of the project's sequential rank on the priority list. The project having the highest priority is ranked number one (1).
  - (b) EPA project identification number.
  - (c) Name and type of municipality.
  - (d) Description of project component.
  - (e) Project step.
  - (f) Grant application number.
  - (g) Ready to proceed date consisting of the expected date when the project application will be complete and ready for certification by the Department. For the current funding year, the ready to proceed date will be based upon planning and design schedules submitted by potential applicants. For later funding years, the ready to proceed date may be based upon information available to the Department.
  - (h) Target certification date consisting of the earliest estimated date on which the project could be certified based on readiness to proceed and on the Department's estimate of federal grant funds expected to be available. The target certification date of the current funding year will be assigned based on a ready to proceed date. In the event actual funds made available differ from the Department's estimate when the list was adopted the Department may modify this date without public hearing to reflect actual funds available and revised future funding estimates.
  - (i) Estimated grant amount based on that portion of project cost which is potentially eligible for a grant as set forth in OAR 340-53-020.
  - (j) The priority point score used in ranking the projects.
- (4) The Department will determine the scope of work to be included in each project prior to its placement on the priority list. Such scope of work may include the following:
- (a) Design (Step 2) and construction of complete treatment works, (Step 2 plus 3); or
  - (b) Construction of one or more complete waste treatment systems; or
  - (c) Construction of one or more treatment works segments of a treatment works component.

- (5) (a) When determining the treatment works components or segments to be included in a single project, the Department will consider:
  - (A) The specific treatment works components or segments that will be ready to proceed [during a funding year]; and
  - (B) The operational dependency of other components or segments on the components or segment begin considered; and
  - (C) The cost of components or segments relative to allowable project grant. In no case will the project included on the priority list, as defined by OAR 340-53-010(9) exceed ten (10) million dollars [in any given funding year]. [Where a proposed project would exceed this amount the scope of work will be reduced by limiting the number of components or dividing the components into segments. The total grant for treatment works to a single applicant is not however limited by this subsection.]
- (b) The Department shall have final discretion relative to scope of work or treatment works components or segments which constitute a project.
- (6) Components or segment not included in a project for a particular funding year will be assigned a target certification date in subsequent funding year. Within constraints of available and anticipated funds, projects will be scheduled so as to establish a rate of progress for construction while assuming a timely and equitable obligation of funds statewide.
- (7) A project may consist of an amendment to a previously funded project which would change the scope of work significantly and thus constitute a new project.
- (8) The Director may delete a project from the priority list if:
  - (a) It has received full funding;
  - (b) It is no longer entitled to funding under the approved system;
  - (c) EPA has determined that the project is not needed to comply with the enforceable requirements of the Clean Water Act or the project is otherwise ineligible.
- (9) If the priority assessment of a project within a regional 208 areawide water treatment management planning area conflicts with the priority list, the priority list has precedence. The Director will, upon request from a 208 planning agency,

meet to discuss the project [providing the request for such a meeting is submitted to the Director prior to Commission approval of the priority list].

Stat. Auth.: OAR Ch. 468

Hist.: DEQ 24-1980, f. 9-29-80 ef. 10-1-80; DEQ 28-1981 (Temp), f. & ef. 10-19-81; DEQ 15-1982, f. & ef. 7-27-82; DEQ 14-1983, f. & ef. 8-26-83

(ED. NOTE: The text of Temporary Rules is not printed in the Oregon Administrative Rules Compilation. Copies may be obtained from the adopting agency or the Secretary of State.)

#### ELIGIBLE COSTS AND LIMITATIONS

340-53-020

For each project included on the priority list, the Department will estimate the costs potentially eligible for a grant and estimated federal share.

- (1) Where state certification requirements differ from EPA eligibility requirements, the more restrictive shall apply.
- (2) Except as provided in section (3) of this rule, eligible costs shall generally include Step 1, Step 2, and Step 3 costs related to an eligible treatment works, treatment works components or treatment works segments as defined in federal regulations.
- (3) The following will not be eligible for state certification:
  - (a) The cost of collection systems except for those which serve an area where mandatory health hazard annexation is required pursuant to ORS 222.850 to 222.915 or where elimination of waste disposal wells is required by OAR 340-44-019 to 340-44-044. In either case, a Step 1 grant for the project must have been certified prior to September 30, 1979.
  - (b) Step 2 or Step 3 costs associated with advanced treatment components.
  - (c) The cost of treatment components not considered by the Department to be cost effective and environmentally sound.
- (4) The estimated grant amount shall be based on a percentage of the estimated eligible cost. The percentage is seventy-five (75) percent of the estimated eligible cost until FY 1985, when it is reduced to fifty-five (55) percent of the estimated eligible cost for new projects. The Commission may reduce the percentage to fifty (50) percent as allowed by federal law or regulation. The Department shall also examine other alternatives for reducing the extent of grant participation in individual projects for possible implementation beginning in FY 1982. The intent is to spread

available funds to address more of the high priority needs in the state.

- (5) Projects placed on the priority list or rerated a Letter Class A, B or C after the approval of the FY89 priority list, by the Commission on September 9, 1988, shall not have total eligible project costs of more than \$1,500,000 at grant award. The Department will consider inter-related but segmented components a single project for purposes of determining whether total eligible project costs are more than \$1,500,000.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef. 7-27-82

#### ESTABLISHMENT OF SPECIAL RESERVES

340-53-025

From the total funds allocated to the state the following reserves will be established for each funding year:

- (1) Reserve for grant increases of five (5) percent.
- (2) Reserve for Step 1 and Step 2 grant advances of up to ten (10) percent. This reserve shall not exceed the amount estimated to provide advances for eligible small communities projected to apply for a Step 3 or Step 2 plus 3 grant [in the current funding year and one funding year thereafter].
- (3) Reserve for alternative components of projects for small communities utilizing alternative systems of four (4) percent.
- (4) Reserve for additional funding of projects involving innovative or alternative technology of four (4) percent.
- (5) Reserve for water quality management planning of not more than one percent of the state's allotment nor less than \$100,000.
- (6) Reserve for state management assistance of up to four percent of the total funds authorized for the state's allotment.
- (7) Reserve for capitalization of state revolving fund in accordance with the following:
  - (a) FY87 - up to fifty percent.
  - (b) FY88 - up to seventy-five (75) percent.
  - (c) FY89-90 - not less than fifty (50) percent and up to one hundred (100) percent.
  - (d) FY91-94 - one hundred (100) percent.
- (8) Reserve for nonpoint source management planning of not more than 1 percent of the state's allotment nor less than \$100,000.

- (9) The balance of the state's allocation will be the general allotment.
- (10) The Director may at his discretion utilize funds recovered from prior year allotments for the purpose of:
  - (a) Grant increases; or
  - (b) Conventional components of small community projects utilizing alternative systems; or
  - (c) The general allotment.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef. 7-27-82; DEQ 14-1983, f. & ef. 8-26-83; DEQ 3-1987, f. & ef. 2-20-87; DEQ 16-1987, f. & ef. 8-12-87

#### USE OF DISCRETIONARY AUTHORITY

340-53-027

The Director may at the Director's discretion utilize up to twenty (20) percent of annual allotment for replacement or major rehabilitation of existing sewer systems provided:

- (1) The project is on the fundable portion of the state's [current year] priority list; and
- (2) The project meets the enforceable requirements for the Clean Water Act; and
- (3) The project's facilities plan must show major sewer replacement or rehabilitation will reduce Infiltration and Inflow (I/I) and minimize or eliminate surface or underground water pollution. In addition, the project must be more cost effective than other alternatives for solving the identified water quality problems.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 20-1984, f. & ef. 11-8-84; DEQ 16-1987 f. & ef. 8-12-87

#### PRIORITY LIST MANAGEMENT

340-53-030

The Department will select projects to be funded from the priority list as follows:

- (1) After [Commission adoption and] EPA acceptance of the priority list, allocation of funds to the state and determination of the funds available in each of the reserves, final determination of the fundable portion of the priority list will be made. The fundable portion of the list will include the following:



(a) Those projects with demonstrated water quality problems as denoted by Letter Class A, B or C on the final construction grants priority list; and

(b[a]) Sufficient projects selected according to priority rank to utilize that portion of the funds available for grants from [identified as] the state's general allotment. [; and]

[(b) Additional projects involving alternative systems for small communities as necessary to utilize funds available in that reserve.]

(2) [Projects to be funded from the Step 1 and 2 grant advance reserve will be selected based on their priority point scores and whether they are projected to apply for Step 3 or Step 2 plus 3 grant in the current funding year or one funding year thereafter.]

[(3)] Projects included on the priority list but not included within the fundable portion of the list will constitute the planning portion of the list. Projects on the planning portion will only be offered grant funding, in rank order, in the event there were insufficient State Revolving Fund (SRF) projects to allocate the state's federal allotment and as allowed by federal law.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef. 7-27-82

#### PRIORITY LIST MODIFICATION AND BYPASS PROCEDURE

340-53-035

(1) The Department shall [may] not modify or add projects to the priority list after the Department declares the final construction grants priority list official and EPA has accepted the list, except as noted under OAR 340-53-015(8). [or bypass projects as follows:]

[(1) The Department may add to or rerank projects on the priority list after the adoption of the priority list but prior to the approval of the priority list for the next year providing:

(a) Notice of the proposed action is provided to all affected lower priority projects.

(b) Any affected project may within 20 days of receiving adequate notice request a hearing before the Commission provided that such hearing can be arranged before the end of the current funding year.]

- (2) The Department will initiate bypass procedures when any project on the fundable portion of the list is not ready to proceed [during the funding year]:
- (a) The determination will be based on quarterly progress reports.
  - (b) Written notice will be provided to the applicant of intent to bypass the project.
  - (c) [An applicant may request a hearing on the proposed bypass within 20 days of adequate notice. If requested, the Director will schedule a hearing before the Commission within 60 days of the request, provided that such hearing can be arranged before the end of the current funding year.]
  - [(d)] If a project is bypassed, it will maintain its priority point rating and remain eligible for grant funding until [for consideration in future years. If a project is bypassed for two consecutive years, the Commission may remove it from the priority list] either the project is funded or September 30, 1991 when federal sewerage construction grant funds are no longer available.
  - (d[e]) Department failure to certify a project not on the fundable portion of the list or for which funds are otherwise unavailable will not constitute a "bypass".

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 24-1980, f. 9-29-80, ef. 10-1-80; DEQ 15-1982, f. & ef. 7-27-82; DEQ 14-1983, f. & ef. 8-26-83

TABLE 1  
(340-53-015)

CONSTRUCTION GRANTS PRIORITY CRITERIA  
PROJECT CLASS

Letter  
Code

Description

- A. Project will minimize or eliminate surface or underground water pollution where:
1. Water quality standards are violated repeatedly; or
  2. Beneficial uses are impaired or may be damaged irreparably.
- In addition:
1. The EQC by rule OAR 340-44-005 to 440-040, had mandated elimination of discharge or inadequately treated waste to disposal wells; or
  2. The Administrator of the Health Division or the EQC has certified findings of fact which conclude that:
    - a. Water pollution or beneficial use impairment exists; and
    - b. Hazard to public health exists.
- Documentation required includes:
1. Field investigations;
  2. Public Notice and bearing; and
  3. Written findings of fact.
- B. Project will minimize or eliminate surface or underground water pollution where:
1. Water quality standards are violated repeatedly; or
  2. Beneficial uses are impaired or may be damaged irreparably.
- Documentation required includes:
1. Actual written documentation of existing water use impairment; or
  2. Actual written documentation of repeated violation of standards.
- C. Project is required to insure treatment capability to comply with water quality standards including:
1. Minimum federal effluent guidelines established by rule pursuant to PL 95-217; or
  2. Effluent standards established in an issued WPCF or NPDES permit; or
  3. Treatment levels or effluent standards that would be placed in a permit to comply with state or federal regulation (for a source not presently under permit).

**Letter  
Code**

**Description**

Documentation required includes:

Actual written documentation of the applicable guideline, standard, permit condition, or other regulatory requirement.

D. Project is necessary to minimize or eliminate pollution of surface or underground waters from:

1. Nonpoint sources where malfunctioning subsurface sewage disposal systems in developed areas are a contributing factor; or
2. Point sources where infrequent discharges above permitted levels are a contributing factor.

Documentation required includes:

1. Sufficient information to suggest a problem, but
2. Insufficient data to conclusively demonstrate the problem. Facility planning is expected to provide additional documentation.

E. Project is desirable for prevention of potential water pollution problem.

Documentation required includes:

1. Recognition that a problem could develop in the future; and
2. Lack of information to suggest a present water quality problem.

**Regulatory Emphasis  
Points**

**Description**

150 Project received a limited time extension to meet the 1977 secondary treatment goals of the Clean Water Act.

Documentation required includes:

1. Addendum to the NPDES permit extending the compliance date; or
2. Stipulated consent agreement indicating noncompliance. Finding must have been made prior to January 1, 1978.

130 Project is necessary for immediate correction of public health hazard through extraordinary measures such as:

1. Annexation; or
2. Service district formation.

Documentation required includes:

1. EQC order; or
2. Certification of public health hazard by the Administrator of the Health Division pursuant to ORS 431.705 et.seq. or 222.850 et.seq.

Points

Description

120

Project is necessary to eliminate a voluntary or involuntary moratorium, including:

1. Involuntary connection limitations to a centralized facility; or
2. EQC rule that restricts issuance of subsurface disposal permits for a specific geographic area; or
3. Voluntary limitation on connection to a centralized facility or construction of subsurface disposal systems. Voluntary moratorium must meet the following conditions:
  - a. The moratorium was formally enacted prior to August 1, 1979; and
  - b. It attempts to limit flow to a central facility which is at or beyond 90 percent capacity; and
  - c. The jurisdiction has a medium to high growth rate and therefore requires preventive pollution control action.

Documentation required includes:

1. Rule or order establishing involuntary moratorium; or
2. Order, ordinance, or other documentation of voluntary moratorium.

90

Project is necessary because of the potential for regulatory action identified by:

1. NPDES permit limitations or conditions which would be included in a permit when issued or amended; or
2. DEQ approval of a facility plan including a determination of such potential; or
3. A sanitary survey conducted by the Health Division or the DEQ.

Documentation required includes:

DEQ written concurrence based on the above.

50

Project is needed because of probable water quality problems identified through preliminary screening of problem and water quality concerns.

Documentation required includes:

Written suggestion by DEQ.

0 No immediate need for the project has been identified. Background information is either insufficient or unavailable to document the existence of present water quality problems.

STREAM SEGMENT RANK

Stream Segment ranking points shall be assigned based on the formula:

$$\text{Segment Points} = 100 - 2(\text{BR}) \frac{1}{n} (\text{SR})(50)$$

where:

BR = Basin Rank (1 to 19) based on the total population within the Oregon portion of the river basin. The basin having the greatest population is ranked number 1.

n = Number of stream segments in the particular basin.

SR = Segment rank within basin as indicated in the statewide water quality management plan.

Following is a listing of basin ranks, stream segment ranks, and computed stream segment ranking points:

Basin Rank

<u>Basin</u>	<u>1978 Population</u>	<u>No. of Stream Segments</u>	<u>Basin Rank</u>
Willamette	1,672,000	23	1
Rogue	180,100	4	2
Umpqua	84,700	3	3
Deschutes	76,600	4	4
South Coast	76,300	5	5
North Coast/Lower Columbia	66,440	18	6
Klamath	58,200	5	7
Umatilla	50,000	3	8
Mid Coast	44,630	10	9
Hood River	34,200	4	10
Grande Ronde	30,100	3	11
Malheur River	22,480	1	12
Sandy	18,530	3	13
Powder	17,200	4	14
John Day	12,250	2	15
Walla Walla	10,300	2	16
Malheur	7,650	3	17
Goose and Summer Lakes	6,900	2	18
Owyhee	3,420	2	19

### Stream Segment Ranking Points

<u>Segment</u>	<u>Segment Rank</u>	<u>Points</u>
No. 1, Willamette Basin		
Tualatin	1	95.73
Willamette (River Mile	2	93.45
Willamette (River Mile 84-186)	3	91.18
South Yamhill River	4	88.91
North Yamhill River	5	86.64
Yamhill River	6	84.36
Pudding River	7	82.09
Molalla River	8	79.82
S. Santiam River	9	77.55
Santiam River and N. Santiam	10	75.27
Coast Fork Willamette River	11	73.00
Middle Fork Willamette River	12	70.73
Clackamas River	13	68.45
McKenzie River	14	66.10
Rickreall Creek	15	63.91
Luckiamute River	16	61.64
Marys River	17	59.36
Calapooia River	18	57.09
Long Tom River	19	54.82
Columbia Slough	20	52.55
Thomas Creek	21	50.27
Remaining Willamette Basin Streams	22	48.00
No. 2, Rogue Basin		
Bear Creek and Tributaries	1	83.50
Applegate River	2	71.00
Middle Rogue	3	58.50
Remaining Rogue Basin Streams	4	46.00
No. 3, Umpqua Basin		
South Umpqua River	1	77.33
Cow Creek	2	60.67
Remaining Umpqua Basin Streams	3	44.00
No. 4, Deschutes Basin		
Crooked River	1	79.50
Deschutes River (River Mile 120-166)	2	67.00
Deschutes River (River Mile 0-120)	3	54.50
Remaining Deschutes Basin Streams	4	42.00

Segment	Segment Rank	Points
No. 5, South Coast Basin		
Coos Bay	1	80.00
Coos River	2	70.00
Coquille River (River Mile 0-35)	3	60.00
Coquille River (River Mile 35-Source)	4	50.00
Remaining South Coast Basin Streams	5	40.00
No. 6, North Coast/Lower Columbia Basin		
Lewis and Clark River	1	85.22
Klatskanie River	2	82.44
Wilson River (River Mile 0-7)	3	79.88
Trask River (River Mile 0-6)	4	76.88
Skipanon River	5	74.10
Nestucca River (River Mile 0-15)	6	71.32
Nehalem River	7	68.54
Wilson River (River Mile 7+)	8	65.76
Trask River (River Mile 6+)	9	62.98
Nestucca River (River Mile 15+)	10	60.20
Nehalem Bay	11	57.42
Tillamook Bay	12	56.64
Tillamook River (River Mile 0-15)	13	51.86
Nestucca Bay	14	49.08
Necanicum River	15	46.30
Tillamook River (River Mile 15+)	16	43.54
Netarts Bay	17	40.74
Remaining North Coast/Lower Columbia Basin Streams	18	38.00
No. 7, Klamath Basin		
Lost River	1	76.00
Klamath River (River Mile 210-250)	2	66.00
Williamson	3	56.00
Sprague	4	46.00
Remaining Klamath Basin Streams	5	36.00
No. 8, Umatilla Basin		
Umatilla River	1	67.33
Columbia River (Umatilla Basin)	2	50.67
Remaining Umatilla Basin Streams	3	34.00
No. 9, Mid-Coast Basin		
Siuslaw Bay	1	77.00
Yaquina Bay	2	72.00
Siletz River	3	67.00
Yaquina River	4	62.00
Alsea River	5	57.00



Segment	Segment Rank	Points
No. 9, Mid-Coast Basin (Continued)		
Siuslaw River	6	52.00
Alsea Bay	7	47.00
Salmon River	8	42.00
Siletz Bay	9	37.00
Remaining Mid-Coast Basin Streams	10	32.00
No. 10, Hood Basin		
Hood River Main Stem	1	67.50
Columbia River (Hood Basin)	2	55.00
Hood River East, Middle and West Forks	3	42.00
Remaining Hood Basin Streams	4	30.00
No. 11, Grande Ronde Basin		
Grande Ronde River	1	61.33
Wallowa River	2	44.67
Remaining Grande Ronde Basin Streams	3	28.00
No. 12, Malheur Basin		
Malheur River	1	26.00
No. 13, Powder Basin		
Snake River (Powder Basin)	1	61.50
Powder River	2	49.00
Burnt River	3	36.50
Remaining Powder Basin Streams	4	24.00
No. 14, Sandy Basin		
Columbia River (Sandy Basin)	1	55.33
Sandy River	2	38.67
Remaining Sandy Basin Streams	3	22.00
No. 15, John Day Basin		
John Day River	1	45.00
Remaining John Day Basin Streams	2	20.00
No. 16, Walla Walla Basin		
Walla Walla River	1	43.00
Remaining Walla Walla Basin Streams	2	18.00

<u>Segment</u>	<u>Segment Rank</u>	<u>Points</u>
No. 17, Malheur Lake Basin		
Silvies River	1	49.33
Donner & Blitzen River	2	32.67
Remaining Malheur Lake Basin Streams	3	16.00
No. 18, Goose and Summer Lakes Basin		
Chewaucan River	1	39.00
Remaining Goose and Summer Lakes Basin Streams	2	14.00
No. 19, Owyhee Basin		
Owyhee River	1	17.00
Remaining Owyhee Basin Streams	2	12.00

### Population Emphasis

Population emphasis points shall be assigned on the basis of the formula:

$$\text{Points} = \text{Population Served}^2 \log 10$$

where:

Population Served represents the existing Oregon population that would be initially served by the project if it were in operation.

### Project Type

<u>Description</u>	<u>Points</u>
Secondary Treatment and BPWTT	10
Major Sewer System Rehabilitation	9
Interception of Existing Discharge	8
Infiltration/Inflow Correction	7
Interceptor to Serve Existing Development	6
Treatment More Stringent than Secondary	5
Correction of Combined Sewer Overflows	3
Interceptor to Serve New Development	2
New Collectors	1

*Oregon Department of Environmental Quality*

# A CHANCE TO COMMENT ON...

**Rule Modifications to the Construction Grants Program  
Notice of Public Hearing**

Date Prepared: 2/2/89  
Notice Issued: 2/15/89  
Comments Due: 3/17/89

**WHO IS THE  
APPLICANT:**

Cities, counties and special districts seeking U.S. Environmental Protection agency grants for sewerage projects are directly affected.

**WHAT IS  
PROPOSED:**

The Department proposes to modify the Construction Grants Program Rules (OAR 340-53). The proposed rule modifications will:

- (1) Establish a final construction grant priority list of projects eligible for funding;
- (2) Limit projects eligible for grant assistance to those communities with documented water quality problems (Letter Class A, B, or C on the final construction grants priority list);
- (3) Require communities to request by June 30, 1989 to be placed on the final construction grant priority list;
- (4) Limit total eligible project costs to \$1,500,000 for those projects rated a \letter Class A,B, or C after the FY89 priority list was approved on September 9, 1988; and
- (5) Remove the requirement for the Commission to approve the construction grants priority list.

**WHAT ARE THE  
HIGHLIGHTS:**

In 1987, when the Clean Water Act was reauthorized, Congress chose to phase out the construction grant program and replace it with a State Revolving Fund (SRF) program. Adoption of these rule modifications would enable the Department to make a smooth transition from the grant program to the SRF and be consistent with Congress's intent to phase out the grant program.

The rule modifications would establish a final priority list of projects to receive grant funding. Grant funds would be available to

B - 1



811 S.W. 6th Avenue  
Portland, OR 97204

11/1/86

**FOR FURTHER INFORMATION:**

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.

eligible projects, until September 30, 1991, provide all requirements for a grant are met. Projects eligible for grant funds would be limited to Letter Class A, B, or C projects. Projects placed on the priority list or reranked after the FY89 priority list was adopted by the Commission will be limited to \$1,500,00 of eligible costs.

**HOW IS THE**

**PUBLIC AFFECTED:** Adoption of the rule modifications will affect communities financing water pollution control facilities.

**HOW TO COMMENT:** Public Hearing -- Wednesday, March 15, 1989, 10:00 a.m. at the following address:

Department of Environmental Quality  
Tenth Floor Conference Room 10A  
811 S.W. Sixth Avenue  
Portland, Oregon 97204 Telephone: 229-6218

The proposed rule modifications will be mailed to all cities, counties, sanitary or sewer districts, and interested persons on February 15, 1988. Written comments should be presented to DEQ, Construction Grants Section, 811 S.W. Sixth Avenue, Portland, Oregon 97204. The comment period will close at 5:00 p.m., March 17, 1989.

**WHAT IS THE**

**NEXT STEP:** After the public hearing, the Environmental Quality Commission may adopt rules identical to those proposed, modify the rules or decline to act. The Commission's deliberations should come on April 14, 1989 as part of the agenda of a regularly scheduled Commission meeting.

**ATTACHMENTS:**

Statement of Need for Rules (including Fiscal Impact)  
Statement of Land Use Consistency

RJK:crw  
WC4470

Agenda Item J, June 2, 1989, EQC Meeting

STATEMENT OF NEED FOR RULEMAKING

Pursuant to ORS 183.335(7), this statement provides information on the Environmental Quality Commission's intended actions to consider revisions to OAR Chapter 340, Division 53, rules.

LEGAL AUTHORITY

ORS 468.020 authorizes the Environmental Quality Commission to adopt rules and standards in accordance with ORS Chapter 183.

NEED FOR THE RULE

Rule modifications are necessary to allow the Department to implement a strategy adopted by the Commission to transition from construction grants to the State Revolving Fund program.

PRINCIPAL DOCUMENTS RELIED UPON IN THIS RULEMAKING

- (a) Public Law 92-500, as amended
- (b) OAR 340 Division 53
- (c) Agenda Item 2, Alternatives for Transition from the Construction Grants Program to the State Revolving Fund Program, Commission Work Session, January 19, 1989.

FISCAL AND ECONOMIC IMPACT OF RULEMAKING

The proposed rule modifications to OAR 340-53, Priority List Development, implement a transition from construction grants to a State Revolving Fund loan program. The grant program now provides for 55% grants for eligible project costs. Eligibility is limited major project components such as the sewage treatment plant, interceptor sewers, major pump stations, and infiltration/inflow correction. The revolving fund program will provide 3% loans up to 20 years, and 0% loans up to 5 years. Project eligibility is increased to include reserve capacity (20 year growth projections), collector sewers and pump stations, and advanced waste treatment.

Overall Impact

The rule changes will not affect project scope, project size, or project cost - projects are constructed to eliminate water quality problems, regardless of financing mechanisms. In addition, projects funded either by grants or by loans must proceed from an approved facility plan which requires a cost effective analysis and an environmental impact assessment.

Because the project cannot change, project capitol costs, project operating costs, and project benefits will be the same regardless of the financing program.

Because there will be a change in financing from grants to loans, and because eligibility will change, the local government share of the project cost will not be the same. This may result in a negative fiscal impact (increased costs to local government) or a positive fiscal impact (decreased costs to local government). The impact can only be determined from a project by project evaluation.

Examples of cost to Local Government--three examples.

Example 1:	Sewage Treatment Plant Improvements	\$1,000,000
	Major Interceptors and Pump Stations	\$ 500,000
	Infiltration/Inflow Correction	\$ 500,000
		-----
		\$2,000,000
a.	Construction Grants	
	Eligible Costs	\$2,000,000
	Grant	\$1,100,000
	Cost to Local Government	\$ 900,000
	Annual Cost, 20 years, 9%	\$ 98,600
b.	Construction Loans	
	Eligible Costs	\$2,000,000
	Cost to Local Government	\$2,000,000
	Annual Cost, 20 years, 3%	\$ 134,000

Example 2:	Sewage Treatment Plant Improvements	\$1,000,000
	Major Interceptors and Pump Stations	\$ 500,000
	Infiltration/Inflow Correction	\$ 500,000
	Reserve Capacity	\$ 600,000
		-----
		\$2,600,000
a.	Construction Grants	
	Eligible Costs	\$2,000,000
	Grant	\$1,100,000
	Cost to Local Government	\$1,500,000
	Annual Cost, 20 years, 9%	\$ 164,000
b.	Construction Loans	
	Eligible Costs	\$2,600,000
	Cost to Local Government	\$2,000,000
	Annual Cost, 20 years, 3%	\$ 174,800

Example 3: Sewage Treatment Improvements	\$2,000,000
Major Interceptors and Pump Stations	\$ 500,000
Infiltration/Inflow Correction	\$ 500,000
Reserve Capacity	\$ 600,000
Collector Sewers	\$ 400,000
	-----
	\$ 3,000,000
a. Construction grants	
Eligible Costs	\$2,000,000
Grant	\$1,100,000
Cost to Local Government	\$1,900,000
Annual Cost, 20 years, 9%	\$ 208,100
b. Construction Loans	
Eligible Costs	\$3,000,000
Cost to Local Government	\$3,000,000
Annual Cost, 20 years, 3%	\$ 201,700

In the examples, annual costs to local governments are generally greater with loan financing than annual costs with grant financing. The loan program becomes more attractive however, if the project contains components which are not grant eligible but which are loan eligible. Generally, communities which are growing rapidly can take advantage of the loan programs increased eligibility. The fiscal impact on these communities, from the transition to loans, should not be significant.

Significant Impacts

Small rural communities, which are not experiencing population and commercial growth, will be significantly impacted by termination of the grant program. It will be difficult to finance 100% of the project costs with loans. Preliminary evaluations of small communities' financial capability suggest that user charges necessary to make loan payments may range from \$40 to \$60 per month for a typical project. These rates will significantly impact ratepayers, particularly homeowners and small businesses.

The Commission recognizes the need to provide grant funds for small rural communities. An amount of \$25 million has been set-aside to fund remaining projects on the grant priority list which have documented water quality problems. These projects are primarily for rural communities; no projects are for communities over 10,000 in population, and most communities are less than 5,000 in population. The \$25 million set-aside should be sufficient to fund remaining projects.

### No Action Alternative

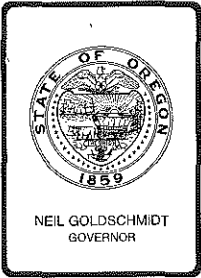
The Commission could decide not to approve proposed rule changes and not to implement the transition strategy. In this case an additional \$19 million in grant funds would be available. This course of action is not recommended because \$25 million is sufficient to fund the remaining projects on the grant priority list which address documented water quality problems. An additional \$19 million for construction grants would severely limit the size of the revolving fund.

### LAND USE CONSISTENCY

The proposed rule modifications appears to be consistent with all statewide planning goals. Specifically, the rule modifications comply with Goal 6 because they allow implementation of a program to provide loans for water pollution control facilities, thereby contributing to the protection of water quality. The rule changes comply with Goal 11 because they assist communities in financing needed sewage collection and treatment facilities.

Public comment on the proposed rule modifications is invited and may be submitted in the same manner described in the accompanying Public Notice of rule modification.





## *Environmental Quality Commission*

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### MEMORANDUM

**TO:** Environmental Quality Commission                      **DATE:** May 4, 1989

**FROM:** Barbara Burton, Hearings Officer

**SUBJECT:** Report from Public Hearing held on March 15, 1989

Proposed Rule Modifications to the Construction Grants Program  
Summary of Proceedings

The public hearing for the proposed rule modifications was held on March 15, 1989 at 10:00 a.m. in room 10A at 811 SW Sixth Avenue, Portland, Oregon. No one attended the public hearing, therefore, no oral testimony was given. One written comment on the rule modifications was received by close of the comment period on March 17, 1989.

#### Summary of Testimony

Mayor Laurine Wrenn and Al Brown of the City of Ontario requested that changes be made to the proposed rules so Ontario's sewerage project would be eligible for grant funding. The City's requests were to increase the eligible project costs from \$1,500,000 to \$2,500,000 and limit the jurisdictions eligible to receive grants to those with populations under 10,000. The City did support the Department's process for phasing out the grant program and instituting the revolving fund program.



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: March 3, 1989  
Agenda Item: \_\_\_\_\_  
Division: Water Quality  
Section: Construction Grants

**SUBJECT:** Rule Modification for Preparation of a Final Construction Grants Priority List

**PURPOSE:** Request Commission authorization to hold a public hearing on rule modifications for the construction grants program (OAR 340-53).

**ACTION REQUESTED:**

- Work Session Discussion
  - General Program Background
  - Program Strategy
  - Proposed Policy
  - Potential Rules
  - Other: (specify)
  
- Authorize Rulemaking Hearing
  - Proposed Rules (Draft) Attachment A
  - Rulemaking Statements Attachment C
  - Fiscal and Economic Impact Statement Attachment C
  - Draft Public Notice Attachment B
  
- Adopt Rules
  - Proposed Rules (Final Recommendation) Attachment \_\_\_\_\_
  - Rulemaking Statements Attachment \_\_\_\_\_
  - Fiscal and Economic Impact Statement Attachment \_\_\_\_\_
  - Public Notice Attachment \_\_\_\_\_
  
- Issue Contested Case Decision/Order
  - Proposed Order Attachment \_\_\_\_\_
  
- Other: (specify)

DESCRIPTION OF REQUESTED ACTION:

The Department requests authorization from the Commission to hold a public hearing on modifications to the Construction Grants Rules (OAR 340-53). These rule modifications are needed to allow the Department to end the Construction Grants program in an orderly manner. The modifications will:

- (1) Establish a final list of projects eligible for grant funding;
- (2) Limit projects eligible for grant assistance to those communities with documented water quality problems (Letter Classes A, B, and C on the final construction grant priority list);
- (3) Require communities to request by June 30, 1989 to be placed on the final construction grant priority list;
- (4) Limit total eligible project costs to a maximum of \$1,500,000 for those projects added to the priority list or rerated a Letter Class A, B, or C after the FY89 priority list was approved by the Commission on September 9, 1988; and
- (5) Remove the requirement for the Commission to approve the construction grants priority list.

AUTHORITY/NEED FOR ACTION:

- |   |                     |
|---|---------------------|
| <input type="checkbox"/> Required by Statute: _____                               | Attachment _____    |
| Enactment Date: _____   |                     |
| <input type="checkbox"/> Statutory Authority: _____                               | Attachment _____    |
| <input checked="" type="checkbox"/> Amendment of Existing Rule: <u>OAR 340-53</u> | Attachment <u>A</u> |
| <input type="checkbox"/> Implement Delegated Federal Program: _____               | Attachment _____    |
| <input type="checkbox"/> Other: _____   | Attachment _____    |
| <input checked="" type="checkbox"/> Time Constraints: (explain)                   |                     |

A public hearing on the proposed rule modification has been scheduled for March 15, 1989. The Final Grant Priority List must be submitted to EPA for approval before the FY 90 Federal Fiscal Year begins on October 1, 1989.

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Agenda Item:  
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DEVELOPMENTAL BACKGROUND:

<input type="checkbox"/> Advisory Committee Report/Recommendation	Attachment <input type="checkbox"/>
<input type="checkbox"/> Hearing Officer's Report/Recommendations	Attachment <input type="checkbox"/>
<input type="checkbox"/> Response to Testimony/Comments	Attachment <input type="checkbox"/>
<input checked="" type="checkbox"/> Prior EQC Agenda Items:	

EQC Work Session Agenda Item 2 on January 20, 1989

<input type="checkbox"/> Other Related Reports/Rules/Statutes:	Attachment <u>D</u>
<input type="checkbox"/> Supplemental Background Information	Attachment <input type="checkbox"/>
	Attachment <input type="checkbox"/>

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The proposed rule modifications will limit the number of communities eligible to receive a federal grant for construction of municipal sewerage facilities. At present there are 32 communities which qualify for grant funding under the proposed rule modifications. The Department anticipates that approximately a dozen additional communities may be able to qualify for placement within the fundable portion of the grant priority list before the June 30, 1989 deadline.

By limiting grants, the state would increase the ultimate size of the State Revolving Fund, thereby, expanding the total pool of money available for loans to communities for sewerage projects.

PROGRAM CONSIDERATIONS:

At the January 20, 1989 EQC Work Session the Department presented several options available to the Commission for ending the construction grant program. The Commission chose to limit projects receiving grants by directing the Department to prepare a final construction grants priority list. The Department has modified the construction grant program rules to reflect the alternative chosen by the Commission and now needs to conduct a public hearing on those rule modifications. The proposed rules will assure a definitive end to the sewerage facility construction grant program and provide for a smooth transition into the state revolving fund program.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

An additional consideration not covered at that work session was what type of appeal process should be made available to communities if they disagree with the Department's ranking of their grant project. The alternatives considered were:

1. Allow communities to appeal to the Director for reconsideration. This modification was requested by the Commission at its September 9, 1988 meeting and is reflected in the proposed rule modification.
2. Communities could appeal directly to the Commission for final project consideration. This alternative would require the Commission to evaluate the merits of individual projects.
3. The final grant priority list could be approved by the Commission. This alternative would continue the present system where the Commission approves the grant priority list. Communities would continue to request Commission review of the merits of individual projects before approval of the grant priority list.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends that the Commission authorize the Department to hold a public hearing on the proposed rule modifications for the construction grants program contained in Attachment A.

This action would allow the construction grant program to continue towards a smooth transition to the State Revolving Fund. The preparation of a final construction grant priority list would give communities planning sewerage works projects a clear understanding of whether they would receive a grant. The Department believes that this alternative is the best approach for providing needed grant funds to small communities and those already in the process of obtaining a grant, while not significantly diminishing the ultimate size of the State Revolving Fund.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The alternative outlined in this staff report would be consistent with the Water Quality Act of 1987 (Clean Water Act Amendments) and with Oregon Revised Statutes. The 1987 Legislature gave the Department the authority to establish a State Revolving Fund, but did not specify how the Department should transition from the construction grant program to the revolving fund program. At the staff level, the Department's efforts have been directed at

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maximizing the revolving fund, subject to the recognition that some remaining projects should be financed with construction grants.

ISSUES FOR COMMISSION TO RESOLVE:

The proposed modifications to the construction grant rules have removed the need for the Commission to adopt the priority list. At issue is whether the Commission would wish to consider appeals by communities regarding their placement on the priority list. Hearing these appeals would require the Commission to evaluate the merits of individual cases. The Commission indicated that they wished to set policy and allow the Department to implement the policy and make determinations on individual projects. The proposed rules allow an appeal to the Director.

INTENDED FOLLOWUP ACTIONS:

Hold public hearing on proposed rule modification on March 15, 1989.

Request approval of rule modifications by the Commission at their April 14, 1989 meeting.

Prepare and mail the proposed final construction grant priority list to interested parties by May 31, 1989.

Prepare and mail the final official construction grant priority list after June 30, 1989.

Approved:

Section:

Division:

Director:

George Davis  
Walter W. Martin  
Jack Han

Report Prepared By: Richard J. Kepler

Phone: 229-6218

Date Prepared: January 31, 1989

RJK:crw  
WC4468  
February 3, 1988

<p style="text-align: center;">WORK SESSION REQUEST FOR EQC DISCUSSION</p>
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Meeting Date: 1/19/89  
 Agenda Item: 2  
 Division: WQ  
 Section: CG

**SUBJECT:**

Alternatives for Transition from the Construction Grants Program to the State Revolving Fund Program.

**PURPOSE:**

The Department requests EQC direction on how the Construction Grants Program should be phased out and what sewerage works projects should be eligible for the remaining grant funds.

**ACTION REQUESTED:**

- Work Session Discussion
- General Program Background
- Program Strategy
- Proposed Policy
- Potential Rules
- \_\_\_ Other: (specify)
- \_\_\_ Authorize Rulemaking Hearing
- Proposed Rules (Draft) Attachment \_\_\_
- Rulemaking Statements Attachment \_\_\_
- Fiscal and Economic Impact Statement Attachment \_\_\_
- Draft Public Notice Attachment \_\_\_
- \_\_\_ Adopt Rules
- Proposed Rules (Final Recommendation) Attachment \_\_\_
- Rulemaking Statements Attachment \_\_\_
- Fiscal and Economic Impact Statement Attachment \_\_\_
- Public Notice Attachment \_\_\_
- \_\_\_ Issue Contested Case Decision/Order
- Proposed Order Attachment \_\_\_
- \_\_\_ Other: (specify)





subject to the recognition that some remaining projects should be financed with construction grants.

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The proposed alternative will limit the number of communities eligible to receive a federal grant for construction of municipal sewerage facilities. By limiting grants, the state would increase the ultimate size of the State Revolving Fund, thereby, expanding the total pool of money available for loans to communities for sewerage projects. The Commission should take into account several factors when considering a transition strategy.

1. The primary advantage of the grant program has been that it provides a source of funds that is not repaid. However, the advantages of the grant program have been reduced by diminished federal participation (75% grant funding to 55%), and by limiting the portions of a project eligible for grant financing.
2. The SRF will provide low interest loans for 100 percent of a project's costs. The primary disadvantage is that the loans must be repaid.
3. The transition from grant financing to loan financing amounts to a tradeoff between funding of sewerage facilities now and in the future. Funds allocated to grants in the short term will reduce the size of the State Revolving Fund. The SRF will be the only known significant source of financial assistance for construction of sewerage facilities in the future.
4. Community affordability is another significant issue. Small communities experiencing little population growth would be better off with a grant than a loan. Loans may be prohibitively expensive for many small communities.

PROGRAMMATIC CONSIDERATIONS:

Congress chose to phase out the Construction Grants Program in 1987. Federal funds will continue to be provided to the states through 1994. Until 1991, the state has the option to use some of this money for awarding construction grants or for making loans. After 1991, available federal money must be put in the State Revolving Fund (SRF) and used for loans. States were given the flexibility to phase out the grant program quickly or they could choose to allocate substantial funds for grants, and implement the SRF more slowly. The

more money that is used to finance sewerage facilities with grants, the smaller the pool of money available for use in the revolving fund program. To demonstrate this flexibility, Attachment C presents three options for the allocation of funds to grants and to the SRF from FY 1989 through FY 1995.

The other major consideration is to ensure that Oregon is able to utilize all of the federal grant funds made available to it for these programs. If Oregon is unable to commit all of the federal funds, the unused portion will be lost to the state; therefore, the Department must start working with communities now to ensure all funds will be obligated. The Department believes that if a course of action is determined now, whatever alternative is chosen, no funds will be lost.

POLICY ISSUES FOR COMMISSION TO RESOLVE:

What types of projects should receive construction grant funding as the program is phased out.

COMMISSION ALTERNATIVES:

1. Direct the Department to establish a final construction grant priority list for the duration of the grant program . The proposed alternative would modify OAR 340-53 by:
  - (1) Establishing a final list of projects eligible for funding;
  - (2) Limiting projects eligible for grant assistance to those communities with documented water quality problems (Letter Classes A, B, and C on the priority list);
  - (3) Requiring communities to request by June 30, 1989 to be placed on the final priority list;
  - (4) Limiting total eligible project costs to \$1,500,000 for those projects rated a Letter Class A, B, or C after the FY89 priority list was approved on September 9, 1988; and
  - (5) Removing the requirement for the Commission to approve the construction grants priority list.

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2. Direct the Department to terminate grant funding and implement the SRF program as quickly as possible.
3. Direct the Department to continue to award grants to communities in priority rank order through September 30, 1991 or until all available grant funds are exhausted.

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department Recommends that the Commission adopt Alternative 1.

This alternative appears to be the best approach for providing needed grant funds to small communities and those already in the process of obtaining a grant. The Department also believes that this alternative does not significantly diminish the ultimate size of the State Revolving Fund for future sewerage facilities funding.

INTENDED FOLLOWUP ACTIONS:

Draft rule modifications for OAR 340-53.

Request authorization from the Commission to hold a public hearing on the rule modifications.

Request approval of rule modification from Commission.

Develop final construction grants priority list.

Approved:

Section: \_\_\_\_\_

Division: Richard Kepler

Director: \_\_\_\_\_

Contact: Richard Kepler  
Phone: 229-6218

(Kepler:kjc)  
(WJ1420)  
(1/4/89)

ALTERNATIVES FOR TRANSITION FROM THE CONSTRUCTION GRANTS PROGRAM  
TO A STATE REVOLVING FUND

Alternative 1 -- Develop a Final Grant Priority List and Limit Grants to Those Projects with Documented Water Quality Problems:

1. Direct the Department to establish a final construction grant priority list for the duration of the grant program. The proposed alternative would modify OAR 340-53 by:
  - (1) Establishing a final list of projects eligible for funding;
  - (2) Limiting projects eligible for grant assistance to those communities with documented water quality problems (Letter Classes A, B, and C on the priority list);
  - (3) Requiring communities to request by June 30, 1989 to be placed on the final priority list;
  - (4) Limiting total eligible project costs to \$1,500,000 for those projects rated a Letter Class A, B, or C after the FY89 priority list was approved on September 9, 1988; and
  - (5) Removing the requirement for the Commission to approve the construction grants priority list.

Under this alternative projects on the present FY89 priority list with Letter Class A, B and C ratings would continue to pursue a grant. Communities would also be allowed to submit documentation of water quality problems to the Department for evaluation and placement on a final grant priority list. Projects rated a Letter Class A, B, or C after approval of the FY89 priority list on September 9, 1988 would be limited to total eligible project costs of \$1,500,000. Those projects that fail to reach Class A, B or C status before June 30, 1989 would then only be eligible for a loan under the revolving fund program.

**Advantages:** This alternative assures that projects currently eligible for a grant with a Letter Class A, B or C rating will not be denied that opportunity. It also allows one final chance for small communities with water quality problems to get their projects on the list and obtain a grant. In addition, it clearly fixes a point of transition from grants to the revolving fund program. Finally, it should limit the amount of money that will be awarded for grants and should not significantly reduce the size of the revolving fund. The amount of money that potentially would be used for grants is not absolutely known, but staff believes that it should not exceed \$25 million. About \$133.9 million would then be available from the SRF.

**Disadvantages:** This alternative does erode the potential size of the revolving fund. However, the staff does not believe that the revolving fund would shrink significantly.

**Alternative 2 -- Offer as Many Grants as Possible:**

This alternative would be implemented simply by awarding grants to communities in priority order through September 30, 1991, or until available grant funds were exhausted, whichever comes first. The Department would continue to assist communities in qualifying for grant funds, and would prepare a new project priority list for Commission approval in 1989 and 1990. The Department would continue to move forward to implement the SRF program, since 50 percent of all FY 1989 and 1990 federal appropriations must be used for the revolving fund program.

**Advantages:** This alternative would amount to a \$44.4 million grant set-aside (total amount of grant funds allowed by law), which would be sufficient to fund all known projects with documented water quality problems, and several potential new projects as well. It would also give many communities ample time to complete grant qualification work.

**Disadvantages:** The primary disadvantage with this alternative would be its adverse impact on the size of the revolving fund; approximately \$111.4 million would be available for loans rather than \$133.9 million under Alternative 1.

**Alternative 3 -- Make the SRF as Large As Possible:**

This alternative would be implemented by rescinding approval of the FY89 construction grant project priority list, by adopting SRF rules, and by directing staff to implement the SRF program as quickly as possible.

**Advantages:** Approximately \$165 million would be available for project loans over the next seven (7) years. This approach would provide as much money as possible for subsequent loans from the revolving fund.

Disadvantages: There would not be any funds for construction grants. Many communities are developing facilities plans with the anticipation of receiving a construction grant in this fiscal year. Some communities, particularly small rural communities, may lack the financial capability to construct major sewerage facility improvements without grant assistance. Since the SRF is a new program, it is not known if there are sufficient projects able to qualify for loan funds on short notice.

SRF Task Force Support

An attempt was made to convene the SRF Task Force to review the three transition alternatives, however, due to Christmas holiday schedules, this was not possible. Staff instead phoned members individually. Eight of ten members were contacted; all eight members supported Alternative 1. Several members expressed strong support for ending the grant program in the near future, with the provision that communities on the project priority list for documented water quality problems, be allowed to receive a construction grant.

**BACKGROUND**

To help address the pollution problems of the nation's waters, the U. S. Congress passed the Clean Water Act in 1972. Part of this legislation established a grant program to provide federal assistance to municipalities for the construction of sewerage facilities needed to meet the requirements of the new Act. Over \$44.6 billion has been appropriated for the national construction grants program. Of this amount, \$515 million has been used in Oregon to build sewerage facilities.

Congress has amended the Clean Water Act several times to reduce the level of federal funding for projects. Important changes included reducing federal grant participation, reducing eligibility to certain project components, and restricting funding to existing needs only, and not for future growth capacity. In 1987, when the Clean Water Act was reauthorized, Congress chose to phase out the construction grant program and replace it with a State Revolving Fund program.

A State Revolving Fund is a pool of money from which loans can be made for construction of sewerage facilities. As loans are repaid, the money is returned to the revolving fund to be used for more loans.

The revolving fund program was intended to provide a simple, stream-lined, state operated program, that would help fund projects without reliance on federal grants. Because of statutory requirements in the Act and requirements developed by the U.S. Environmental Protection Agency, the program is burdened with more cumbersome bureaucracy than originally was envisioned by the states. These added federal requirements make the program less desirable for cities; however, the Department believes the availability of loans at below market interest rates will still make the program attractive, particularly after construction grant funds are no longer available. Once federal grant funds have been loaned out through the SRF program, the repayed funds are no longer subject to many of the federal requirements, and the SRF should become easier to manage and less cumbersome.

Grants will not be available to municipalities for construction of sewerage facilities after September 30, 1991, and states are required to set up a State Revolving Fund if they wish to receive further federal funds. During the 1987 legislative session, the Department did receive authorization through ORS 468.423 to establish a State Revolving Fund program. The Department intends to return to the 1989 Legislature to request the 20 percent state matching funds needed to receive federal funds. If the Legislature chooses not to authorize the needed state match or provides a lower amount than requested, the Department will immediately proceed to contact further communities on the priority list and initiate procedures to enable grants to be awarded.

The Department is establishing procedures to implement the program. An Advisory Task Force was created to assist in program development, and proposed rules to govern the SRF program have been prepared. A request for authorization to hold hearings on the rules will come before the Commission at the January 20, 1989 EQC meeting. If authorization is given, public hearings must be held, and the final rules must be adopted by the Commission. Once the rules are adopted, the Department must prepare a priority list of potentially eligible loan recipients, and submit an intended use plan and application for funds to EPA. The Department has reserved funds for potential project loans from the 1988 federal grant allotment. If application is made to EPA by June 30, 1989, the reserved funds will be used for loans; if the date is not met, the funds can be redirected to grants.

The Department is requesting Commission policy direction in the transition from the construction grant program to the State Revolving Fund program (SRF). There are several items and issues of general interest, enumerated below, which should be considered before a transition strategy alternative is selected.

1. The Department has found it useful to make available financial incentives to ease the financial burdens on communities when requiring improvements to their sewerage facilities. The primary advantage of the grant program has been the availability of a source of funds which does not need to be repaid. However, the advantages of the grant program have been diminished through reduction in participation (now 55 percent of eligible costs), elimination of funds for growth capacity, and project eligibility restrictions. The advantage of the SRF is the program's ability to provide low interest loans for 100 percent of project costs including growth capacity. Also under the SRF, project eligibility has been broadened to include storm sewers, estuary and nonpoint source projects. The primary disadvantage is that the loans must be repaid.
2. The federal legislation allows for flexibility in the transition from grants to the SRF; i.e., the program can be phased out quickly or states can choose to allocate substantial funds for grants, and implement the SRF more slowly. To demonstrate this flexibility, Attachment D presents three options for the allocation of funds between grants and loans from FY 1989 through FY 1995.
3. The transition from grant financing to loan financing amounts to a tradeoff between funding of sewerage works now and in the future. Funds allocated to grants in the short term will reduce the size of the State Revolving Fund. The SRF will be the only known significant source of financial assistance for construction of sewerage facilities. In effect, emphasis on grants will result in fewer funds for loans in the future. Conversely, emphasis on loans will mean fewer funds for grants in the immediate future.



4. Community affordability is another significant issue. It appears that small communities experiencing very little population growth would be better off with a grant than a loan, and, further, a loan may be prohibitively expensive. For example, preliminary evaluation of financial capability in some small communities suggests that loan financing under the SRF program will result in sewer use charges of \$40 - \$60 per month. In contrast, City of Portland homeowners pay about \$8.50 per month. If low interest rate loans through the SRF were not available at all, sewer use charges could become very expensive for many communities.
  
5. For the state to be able to commit all the federal grant funds available, the Department must start working with potential grant and loan recipients now to ensure that all federal grant funds can be obligated. Both the grant and loan requirements dictate at least a six month lead time before an award can be made. Therefore, the Department needs to know whether a community will receive a grant or loan so they can be guided through the appropriate qualification process. There are still federal funds available from the FY 1988 allocation which must be obligated to grants and/or loans by September 30, 1989 or the unused funds will be returned to the federal government and lost to the state.

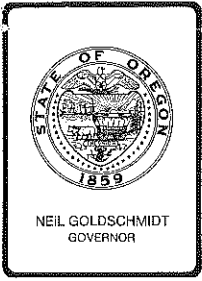
**CONSTRUCTION GRANT AND STATE REVOLVING FUND PROJECTIONS**

(This chart identifies three options available to Oregon during the grant/loan transition. Column 1 shows how the grant/loan split would work if the funds are used partly for grants and partly for loans through 1990. Column 2 show how dollars would be allocated to grants and loans if the maximum allows by federal law is used for grants. Column 3 shows how dollars would be allocated to grants and loans if the maximum allowed by federal law is used for loans.)

State Fiscal Year	Total Oregon Allotment As Authorized (Millions)	1. DEQ Recommended Grant Loan Split			2. If Oregon Takes as Much in Grant Funding as Allowed by Federal Law			3. If Oregon Takes as Much in SRF Funding as Allowed by Federal Law*		
		Estimated \$ for Grants (Millions)	Estimated \$ for SRF (Millions)	20% State Match (Millions)	Estimated \$ for Grants (Millions)	Estimated \$ for SRF (Millions)	20% State Match (Millions)	Estimated \$ for Grants (Millions)	Estimated \$ for SRF (Millions)	20% State Match (Millions)
1989	\$ 20.1	\$15	\$ 5.1	\$ 1.0	\$20.1	\$ 0	\$ 0	\$ 0	\$ 20.1	\$ 4.0
1990	21.3	5	16.3	3.3	10.6	10.6	2.1	0	21.3	4.3
1991	27.4	5	22.4	4.5	13.7	13.7	2.7	0	27.4	5.5
1992**	27.4	0	27.4	5.5	0	27.4	5.5	0	27.4	5.5
1993	20.6	0	20.6	4.1	0	20.6	4.1	0	20.6	4.1
1994	13.7	0	13.7	2.7	0	13.7	2.7	0	13.7	2.7
1995	6.9	0	6.9	1.4	0	6.9	1.4	0	6.9	1.4
<b>Total</b>	<b>\$137.3</b>	<b>\$25</b>	<b>\$112.4</b>	<b>\$22.5</b>	<b>\$44.4</b>	<b>\$92.9</b>	<b>\$18.5</b>	<b>\$ 0</b>	<b>\$137.3</b>	<b>\$27.5</b>

\*Though DEQ has the option of putting all of the funds in the SRF during 1989, DEQ has been operating under the assumption that at least part of the funds would go to grants and is currently working with cities to get them grants.

\*\*Grants are not allowed after 1991.



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: June 2, 1989  
Agenda Item: M  
Division: Air Quality  
Section: Program Operations

#### INTRODUCTION

Asbestos abatement worker certification and contractor licensing rules were adopted by the Environmental Quality Commission (EQC) on April 29, 1988 and became mandatory on January 1, 1989. Since January 1, 1989 difficulties with the rules have become apparent. This request for Commission action is intended to alleviate the two most critical problems with the current rules: overly restrictive qualification requirements for abatement supervisors and negative side effects for residential buildings.

The Department has reviewed these issues with the Oregon Legislature created Asbestos Advisory Board. The Advisory Board concurs with the action proposed by the Department.

The proposed action is authorized under Oregon Revised Statutes Chapter 468, Section 893, Asbestos Abatement Projects - Rules; Variances; Training; Standards; Procedures.

#### PROBLEM STATEMENT RELATED TO SUPERVISORS'S PREREQUISITES

As previously discussed in Work Session Item 2, we currently require that all full-scale asbestos jobs be overseen by a trained asbestos supervisor. Persons wishing to take the asbestos supervisor training are required to have worked as asbestos abatement workers for at least three months. In some instances, this is not turning out to be practical. For example, public and private schools would like, in many cases, to have their maintenance staff trained in proper asbestos removal/handling and perform most, if not all, of the asbestos work that arises. That way, they will be able to ensure the work is performed properly but at lower cost to the school system. Unfortunately, maintenance personnel cannot meet the experience requirements for the supervisor training without first spending three months doing manual asbestos abatement under a certified supervisor. As a

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result, the schools end up being precluded from performing the work with their own staffs. This same situation exists in other areas with building maintenance crew supervisors and environmental cleanup crew supervisors.

#### Recommendation and Evaluation

To correct this problem, the Department recommends a revision to existing regulations. The revision would allow work crew supervision to be an acceptable prerequisite for the asbestos supervisor training. Each applicant would be required to complete both the full-scale worker and the supervisor training classes as is currently required. The proposed revision to OAR 340-33-050(3)(b), as presented in Attachment A, allows for certification based on either on-the-job training in asbestos abatement work or on-the-job training in supervisory duties required for proper asbestos abatement.

Because of our concern that we might otherwise miss the opportunity for asbestos removal from schools during the 1989 summer break, we are requesting that the Commission adopt these rules on a temporary basis. Impact on the schools will be particularly significant if this rule change is not made at this time. Under federal rules, public and private schools face greatly increased costs for sample analysis on many abatement projects done after October 1989. As a result, schools may further postpone asbestos removal projects not completed during the 1989 summer vacation.

#### Options

Other options available to the Commission include directing DEQ to initiate permanent rulemaking, retaining the current requirements, or granting a class variance to individuals employed by school districts and private education authorities to obtain supervisor certification without previous experience conducting asbestos abatement.

#### PROBLEM STATEMENT RELATED TO RESIDENTIAL ASBESTOS WORK

DEQ also requests Commission consideration of the residential portion of the rules. When the Commission adopted the asbestos certification and contractor licensing requirements, an opportunity for an extension of time beyond January 1, 1989, was provided in case adequate training was not available and the public or worker health was threatened due to an inadequately trained work force. On that basis, Mr. Tom Kelly, representing

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the Oregon Remodelers Association, has requested an extension of time until January 1, 1990, for residential asbestos related projects. Mr. Kelly, who is also a member of DEQ's Asbestos Advisory Board, does not suggest that the number of accredited training facilities or training courses has been insufficient to provide the training. He does indicate that the trained work force realistically available to perform residential asbestos related projects is inadequate.

There are three main reasons for this. The first is a general lack of awareness of certification requirements on the part of the remodeling industry. The second is that even if remodelers are properly trained to conduct asbestos related work in compliance with EQC requirements, the cost of insurance becomes prohibitively high. The third is that licensed asbestos abatement contractors are not willing to perform residential abatement projects due to the economy of scale. As a result, asbestos projects are being improperly conducted by either homeowners or uninformed remodelers thereby resulting in a danger to both public and worker health.

The request was reviewed by the Asbestos Advisory Board. After much debate, the Board recommended that the Commission approve an extension of the licensing and certification deadline for residential asbestos related projects for six months or all of 1989. During the period of this extension, two main actions will be undertaken: cooperative effort between DEQ and home remodelers' trade associations to improve the awareness of the hazards associated with asbestos and asbestos related regulations by home remodelers and the public, and discussions between the trade groups, DEQ, the Department of Insurance and Finance, and the insurance community in order to develop a lower insurance rate for home remodelers that engage in proper asbestos abatement procedures.

#### Recommendation and Evaluation

In view of the above, the Department recommends that the Commission adopt a class variance exempting residential facilities from regulation extension. Because the deadline is already past, the Department is also requesting that the Commission take immediate action.

Time limits on variances are set by the Commission. Under OAR 340-33-030(13), the Commission may grant variances from the asbestos licensing and certification rules in accordance with Oregon Revised Statute (ORS) 468.345. Subsections (b) and (c) of this law allow for variances if special circumstances render strict compliance unreasonable, burdensome or impractical due to special physical conditions or cause, or strict compliance would

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result in substantial curtailment or closing down of a business, plant or operation. The high risks associated with asbestos exposure and resultant inability of residential contractors to obtain liability insurance makes both of these subsections applicable. A variance from the regulations could be granted to all persons conducting asbestos abatement in residential buildings with fewer than four dwelling units from the date of adoption until January 1, 1990. The Department recommends that the Commission adopt this variance.

### Options

Other options available to the Commission include directing DEQ to enforce the existing rules and/or originate permanent rulemaking to deregulate residential abatement.

Alternatively, the Commission, via temporary rulemaking, could withdraw residential structures from regulation. The temporary rule could be adopted for six months, until December 2, 1989.

A third option, as proposed by Mr. Kelly, is not seen as viable because only the second of the two prerequisite conditions stated in OAR 340-33-030(12) is met. This is the rule which establishes the conditions for granting of an extension by the Commission.

### DEPARTMENT RECOMMENDATIONS

1. The Department recommends that the temporary rule shown in Attachment A (OAR 340-33-050 (3)(b)), and supported by the rulemaking statements in Attachment B be adopted by the Commission.
2. The Department finds that licensing and certification sections of OAR 340-33-040 and OAR 340-33-050 respectively have unintended effects on residential remodeling. The high risk associated with asbestos result in extremely high insurance costs that have deterred residential firms from obtaining abatement licenses. The strict enforcement of these rules would result in the curtailment or shut down of this industry by significantly increasing residential repair costs or by causing residential work to go underground. Therefore, the Department recommends that the class variance shown in Attachment C be adopted by the Commission as a remedy to conditions listed under the findings above.

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Approved:

Section:

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Division:

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Director:

*Sydney Taylor*

Report Prepared By: Bruce Arnold

Phone: 229-5506

Date Prepared: May 5, 1989

BEA:k  
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Attachments: A, B and C

**OREGON ADMINISTRATIVE RULES  
LICENSING AND CERTIFICATION REQUIREMENTS**

**ASBESTOS REQUIREMENTS**

**340-33-010 AUTHORITY, PURPOSE, & SCOPE**

(1) Authority. These rules are promulgated in accordance with and under the authority of ORS 468.893.

(2) Purpose. The purpose of these rules is to provide reasonable standards for:

- (a) training and licensing of asbestos abatement project contractors,
- (b) training and certification of asbestos abatement project supervisors and workers,
- (c) accreditation of providers of training of asbestos contractors, supervisors, and workers,
- (d) administration and enforcement of these rules by the Department.

(3) Scope

(a) OAR 340-33-000 through -100 is applicable to all work, including demolition, renovation, repair, construction, or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling, or disposal of any material which could potentially release asbestos fibers into the air; except as provided in (b) and (c) below.

(b) OAR 340-33-000 through -100 do not apply to an asbestos abatement project which is exempt from OAR 340-25-465(4).

(c) OAR 340-33-010 through -100 do not apply to persons performing vehicle brake and clutch maintenance or repair.

(d) Full-scale asbestos abatement projects are differentiated from smaller projects. Small-scale asbestos abatement projects as defined by OAR 340-33-020(17) are limited by job size and include projects,

(A) where the primary intent is to disturb the asbestos-containing material and prescribed work practices are used, and

(B) where the primary intent is not to disturb the asbestos-containing material.

(e) OAR 340-33-000 through -100 provide training, licensing, and certification standards for implementation of OAR 340-25-465, Emission Standards and Procedural Requirements for Asbestos.

**340-33-020 DEFINITIONS**

As used in these rules,

(1) "Accredited" means a provider of asbestos abatement training courses is authorized by the Department to offer training courses that satisfy requirements for contractor licensing and worker training.

(2) "Agent" means an individual who works on an asbestos abatement project for a contractor but is not an employe of the contractor.

(3) "Asbestos" means the asbestiform varieties of serpentine (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite (amosite), anthophyllite, actinolite and tremolite.



(4) "Asbestos abatement project" means any demolition, renovation, repair, construction or maintenance activity of any public or private facility that involves the repair, enclosure, encapsulation, removal, salvage, handling or disposal of any asbestos-containing material with the potential of releasing asbestos fibers from asbestos containing material into the air.

Note: Emergency fire fighting is not an asbestos abatement project.

(5) "Asbestos-containing material" means any material containing more than one percent asbestos by weight, including particulate asbestos material.

(6) "Certified" means a worker has met the Department's training, experience, and/or quality control requirements and has a current certification card.

(7) "Contractor" means a person that undertakes for compensation an asbestos abatement project for another person. As used in this subsection, "compensation" means wages, salaries, commissions and any other form of remuneration paid to a person for personal services.

(8) "Commission" means the Environmental Quality Commission.

(9) "Department" means the Department of Environmental Quality.

(10) "Director" means the Director of the Department of Environmental Quality.

(11) "EPA" means the United States Environmental Protection Agency.

(12) "Facility" means all or part of any public or private building, structure, installation, equipment, or vehicle or vessel, including but not limited to ships.

(13) "Friable asbestos material" means any asbestos-containing material that hand pressure can crumble, pulverize or reduce to powder when dry.

(14) "Full-scale asbestos abatement project" means any removal, renovation, encapsulation, repair or maintenance of any asbestos-containing material which could potentially release asbestos fibers into the air, and which is not classified as a small-scale project as defined by (17) below.

(15) "Licensed" means a contracting entity has met the Department's training, experience, and/or quality control requirements to offer and perform asbestos abatement projects and has a current asbestos abatement contractor license.

(16) "Persons" means an individual, public or private corporation, nonprofit corporation, association, firm, partnership, joint venture, business trust, joint stock company, municipal corporation, political subdivision, the state and any agency of the state or any other entity, public or private, however organized.

(17) "Small-scale asbestos abatement project" means small-scale, short-duration projects as defined by (18) below, and/or removal, renovation, encapsulation, repair, or maintenance procedures intended to prevent asbestos containing material from releasing fibers into the air and which:

(a) Remove, encapsulate, repair or maintain less than 40 linear feet or 80 square feet of asbestos-containing material;

(b) Do not subdivide an otherwise full-scale asbestos abatement project into smaller sized units in order to avoid the requirements of these rules;

(c) Utilize all practical worker isolation techniques and other control measures; and

(d) Do not result in worker exposure to an airborne concentration of asbestos in excess of 0.1 fibers per cubic centimeter of air calculated as an eight (8) hour time weighted average.

(18) "Small-scale, short-duration renovating and maintenance activity" means a task for which the removal of asbestos is not the primary objective of the job, including, but not limited to:

- (a) Removal of quantities of asbestos-containing insulation on pipes;
- (b) Removal of small quantities of asbestos-containing insulation on beams or above ceilings;
- (c) Replacement of an asbestos-containing gasket on a valve;
- (d) Installation or removal of a small section of drywall; or
- (e) Installation of electrical conduits through or proximate to asbestos-containing materials.

Small-scale, short duration activities shall be limited to no more than 40 linear feet or 80 square feet of asbestos containing material. An asbestos abatement activity that would otherwise qualify as a full-scale abatement project shall not be subdivided into smaller units in order to avoid the requirements of these rules.

(19) "Trained worker" means a person who has successfully completed specified training and can demonstrate knowledge of the health and safety aspects of working with asbestos.

(20) "Worker" means an employe or agent of a contractor or facility owner or operator.

### 340-33-010(3) GENERAL PROVISIONS

(1) Persons engaged in the removal, encapsulation, repair, or enclosure of any asbestos-containing material which has the potential of releasing asbestos fibers into the air must be licensed or certified, unless exempted by OAR 340-33-010(3).

(2) An owner or operator of a facility shall not allow any persons other than those employees of the facility owner or operator who are appropriately certified or a licensed asbestos abatement contractor to perform an asbestos abatement project in or on that facility. Facility owners and operators are not required to be licensed to perform asbestos abatement projects in or on their own facilities.

(3) Any contractor engaged in a full-scale asbestos abatement project must be licensed by the Department under the provisions of OAR 340-33-040.

(4) Any person acting as the supervisor of any full-scale asbestos abatement project must be certified by the Department as a Supervisor for Full-Scale Asbestos Abatement under the provisions of OAR 340-33-050.

(5) Any worker engaged in or working on any full-scale asbestos abatement project must be certified by the Department as a Worker for Full-Scale Asbestos Abatement under the provisions of OAR 340-33-050, or as a Supervisor for Full-Scale Asbestos Abatement.

(6) Any contractor or worker engaged in any small-scale asbestos abatement project but not licensed or certified to perform full-scale asbestos abatement projects, must be licensed or certified by the Department as a Small-Scale Asbestos Abatement Contractor or a Worker for Small-Scale Asbestos Abatement, respectively under the provisions of OAR 340-33-040 and -050.

(7) Any provider of training which is intended to satisfy the licensing and certification training requirements of these rules must be accredited by the Department under the provisions of OAR 340-33-060.

(8) Any person licensed, certified, or accredited by the Department under the provisions of these rules shall comply with the appropriate provisions of OAR 340-25-465 and OAR 340-33-000 through -100 and maintain a current address on file with the Department, or be subject to suspension or revocation of license, or certification, or accreditation.

(9) Asbestos abatement contractors and workers may perform asbestos abatement projects without a license or certificate until January 1, 1989. Thereafter, any contractor or worker engaged in an asbestos abatement project must be licensed or certified by the Department.

(10) The Department may accept evidence of violations of these rules from representatives of other federal, state, or local agencies.

(11) A regional air pollution authority which has been delegated authority under OAR 340-25-460(7) may inspect for and enforce against violations of licensing and certification regulations. A regional air pollution authority may not approve, deny, suspend or revoke a training provider accreditation, contractor license, or worker certification, but may refer violations to the Department and recommend denials, suspensions, or revocations.

(12) An extension of time beyond January 1, 1989, for mandatory contractor licensing, supervisor certification or worker certification may be approved by the Commission if:

(a) Adequate accredited training as required for any of the categories of licensing or certification is not available in the State, and

(b) There is a public health or worker danger created due to inadequate numbers of appropriately licensed or certified persons to properly perform asbestos abatement activities.

(13) Variances from these rules may be granted by the Commission under ORS 468.345.

#### 340-33-040 CONTRACTOR LICENSING

(1) Contractors may be licensed to perform either of the following categories of asbestos abatement projects:

(a) Full-Scale Asbestos Abatement Contractors: All asbestos abatement projects, regardless of project size or duration, or

(b) Small-Scale Asbestos Abatement Contractor: Small-scale asbestos abatement projects.

(2) Application for licenses shall be submitted on forms prescribed by the Department and shall be accompanied by:

(a) Documentation that the contractor, or contractor's employee representative, is certified at the appropriate level by the Department:

(A) Full-scale Asbestos Abatement Contractor license: Certified Supervisor for Full-Scale Asbestos Abatement.

(B) Small-Scale Asbestos Abatement Contractor: Certified Worker for Small-Scale Asbestos Abatement.

(b) Certification that the contractor has read and understands the applicable Oregon and federal rules and regulations on asbestos abatement and agrees to comply with the rules and regulations.

(c) A list of all certificates or licenses, issued to the contractor by any other jurisdiction, that have been suspended or revoked during the past one (1) year, and a list of any asbestos-related enforcement actions taken against the contractor during the past one (1) year.

(d) List any additional project supervisors for full-scale projects and their certification numbers as Supervisors for Full-Scale Asbestos Abatement.

(e) Summary of asbestos abatement projects conducted by the contractor during the past 12 months.

(f) A license application fee.

(3) The Department will review the application for completeness. If the application is incomplete, the Department shall notify the applicant in writing of the deficiencies.

(4) The Department shall deny, in writing, a license to a contractor who has not satisfied the license application requirements.

(5) The Department shall issue a license to the applicant after the license is approved.

(6) The Department shall grant a license for a period of 12 months. Licenses may be extended during Department review of a renewal application.

(7) Renewals:

(a) License renewals must be applied for in the same manner as is required for an initial license.

(b) For renewal, the contractor or employee representative must have completed at least the appropriate annual refresher course.

(c) The complete renewal application shall be submitted no later than 60 days prior to the expiration date.

(8) The Department may suspend or revoke a license if the licensee:

(a) Fraudulently obtains or attempts to obtain a license.

(b) Fails at any time to satisfy the qualifications for a license or comply with the rules adopted by the Commission.

(c) Fails to meet any applicable state or federal standard relating to asbestos abatement.

(d) Permits an untrained or uncertified worker to work on an asbestos abatement project.

(e) Employs a worker who fails to comply with applicable state or federal rules or regulations relating to asbestos abatement.

(9) A contractor who has a license revoked may reapply for a license after demonstrating to the Department that the cause of the revocation has been resolved.

#### 340-33-050 CERTIFICATION

(1) Workers on asbestos abatement projects shall be certified at one or more of the following levels:

(a) Certified Supervisor for Full-Scale Asbestos Abatement.

(b) Certified Worker for Full-Scale Asbestos Abatement.

(c) Certified Worker for Small-Scale Asbestos Abatement.

(2) Application for Certification-General Requirements.

(a) Applications shall be submitted to the provider of the accredited training course within thirty (30) days of completion of the course.

(b) Applications shall be submitted on forms prescribed by the Department and shall be accompanied by the certification fee.

(3) Application to be a Certified Supervisor for Full-Scale Asbestos Abatement shall include:

(a) Documentation that the applicant has successfully completed the Supervisor for Full-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document, and

(b) Documentation that the applicant has been certified as a Worker for Full-Scale Asbestos Abatement and has at least 3 months of full-scale asbestos abatement experience, including time on powered air purifying respirators and experience on at least five separate asbestos abatement projects; or six months of general construction, environmental or maintenance supervisory experience demonstrating skills to independently plan, organize and direct personnel in conducting an asbestos abatement project. The Department shall have the authority to determine if any applicant's experience satisfies those requirements. Applications for licenses submitted prior to January 1, 1989 shall not be required to include documentation of certification as a worker.

(4) Application to be a Certified Worker for Asbestos Abatement shall include:

(a) Documentation that the applicant to be a Certified Worker for Full-Scale Asbestos Abatement has successfully completed the Worker for Full-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document.

(b) Documentation that the applicant to be a Certified Worker for Small-Scale Asbestos Abatement has successfully completed the Worker for Small-Scale Asbestos Abatement level training and examination as specified in OAR 340-33-070 and the Department guidance document.

(5) Training course providers shall issue certification to an applicant who has fulfilled the requirements of certification.

(6) Certification at all levels is valid for a period of twenty-four (24) months after the date of issue.

(7) Renewals

(a) Certification renewals must be applied for in the same manner as application for original certification.

(b) To gain renewal of certification, a Worker for Full-Scale Asbestos Abatement and a Supervisor for Full-Scale Asbestos Abatement must complete the appropriate annual refresher course no sooner than nine (9) months and no later than twelve (12) months after the issuance date of the certificate, and again no sooner than three (3) months prior to the expiration date of the certificate. A worker may apply in writing to the Department for taking refresher training at some other time than as specified by this paragraph for reasons of work requirements or hardship. The Department shall accept or reject the application in writing.

(c) To gain renewal of certification, a Worker for Small-Scale Asbestos Abatement must comply with the regulations on refresher training which are in effect at the time of renewal. Completion of an accredited asbestos abatement review class may be required if the Environmental Quality Commission determines that there is a need to update the workers' training in order to meet new or changed conditions.

(8) The Department may suspend or revoke a worker's certificate for failure to comply with any state or federal asbestos abatement rule or regulation.

(9) If a certification is revoked, the worker may reapply for another initial certification only after twelve (12) months from the revocation date.

(10) A current worker certification card shall be available for inspection at each asbestos abatement project site for each worker conducting asbestos abatement activities on the site.

#### 340-33-060 TRAINING PROVIDER ACCREDITATION

##### (1) General

(a) Asbestos training courses required for licensing or certification under these rules may be provided by any person.

(b) Any training provider offering training in Oregon to satisfy these certification and licensing requirements must be accredited by the Department.

(c) Each of the different training courses which are to be used to fulfill training requirements shall be individually accredited by the Department.

(d) The training provider must satisfactorily demonstrate through application and submission of course agenda, faculty resumes, training manuals, examination materials, equipment inventory, and performance during on-site course audits by Department representatives that the provider meets the minimum requirements established by the Department.

(e) The training course sponsor shall limit each class to a maximum of thirty participants unless granted an exception in writing by the Department. The student to instructor ratio for hands-on training shall be equal to or less than ten to one (10:1). To apply for an exception allowing class size to exceed thirty, the course sponsor must submit the following information in writing to the Department for evaluation and approval prior to expanding the class size.

(A) The new class size limit,

(B) The teaching methods and techniques for training the proposed larger class,

(C) The protocol for conducting the written examination, and

(D) Justification for a larger class size.

(f) Course instructors must have academic credentials, demonstrated knowledge, prior training, or field experience in their respective training roles.

(g) The Department may require any accredited training provider to use examinations developed by the Department in lieu of the examinations offered by the training provider.

(h) Training providers seeking accreditation for courses conducted since January 1, 1987, may apply for accreditation of those course offerings as though they were applying for initial accreditation. Contractors and workers trained by these providers since January 1, 1987 may be eligible to use this prior training as satisfaction of the initial training required by these licensing and certification rules.

(i) The Department may require accredited training providers to pay a fee equivalent to reasonable travel expenses for one Department representative to audit any accredited course which is not offered in the State of Oregon for compliance with these regulations. This condition shall be an addition to the standard accreditation application fee.

(2) Application for Accreditation.

(a) Application for accreditation shall be submitted to the Department in writing on forms provided by the Department and attachments. Such applications shall, as a minimum, contain the following information:

(A) Name, address, telephone number of the firm, individual(s), or sponsors conducting the course, including the name under which the training provider intends to conduct the training.

(B) The type of course(s) for which approval is requested.

(C) A detailed course outline showing topics covered and the amount of time given to each topic, including the hands-on skill training.

(D) A copy of the course manual, including all printed material to be distributed in the course.

(E) A description of teaching methods to be employed, including description of audio-visual materials to be used. The Department may, at its discretion, request that copies of the materials be provided for review. Any audio-visual materials provided to the Department will be returned to the applicant.

(F) A description of the hands-on facility to be utilized including protocol for instruction, number of students to be accommodated, the number of instructors, and the amount of time for hands-on skill training.

(G) A description of the equipment that will be used during both classroom lectures and hands-on training.

(H) A list of all personnel involved in course preparation and presentation and a description of the background, special training and qualification of each, as well as the subject matter covered by each.

(I) A copy of each written examination to be given including the scoring methodology to be used in grading the examination; and a detailed statement about the development and validation of the examination.

(J) A list of the tuition or other fees required.

(K) A sample of the certificate of completion and certification card label.

(L) A description of the procedures and policies for re-examination of students who do not successfully complete the training course examination.

(M) A list of any states or accrediting systems that approve the training course.

(N) A description of student evaluation methods (other than written examination to be used) associated with the hands-on skill training, as applicable.

(O) A description of course evaluation methods used by students.

(P) Any restriction on attendance such as class size, language, affiliation, and/or target audience of class.

(Q) A description of the procedure for issuing replacement certification cards to workers who were issued a certification card or certification card label by the training provider within the previous 12 months and whose cards have been lost or destroyed.

(R) Any additional information or documentation as may be required by the Department to evaluate the adequacy of the application.

(S) Accreditation application fee.

(b) Application for initial training course accreditation and course materials shall be submitted to the Department at least 45 days prior to the requested approval date.

(c) Upon approval of an initial or refresher asbestos training course, the Department will issue a certificate of accreditation. The certificate is valid for one year from the date of issuance.

(d) Application for renewal of accreditation must follow the procedures described for the initial accreditation. In addition, course instructors must demonstrate that they have maintained proficiency in their instructional specialty and adult training methods during the twelve (12) months prior to renewal.

(3) Denial, Suspension or Revocation of Certificate of Accreditation. The Director may deny, revoke or suspend an application or current accreditation upon finding of sufficient cause. Applicants and certificate holders shall also be advised of the duration of suspension or revocation and any conditions that must be met before certificate reinstatement. Applicants shall have the right to appeal the Director's determination through an administrative hearing in accordance with the provisions of OAR Chapter 340 Division 11. The following may be considered grounds for denial, revocation or suspension:

(a) False statements in the application, omission of required documentation or the omission of information.

(b) Failure to provide or maintain the standards of training required by these regulations.

(c) Failure to provide minimum instruction required by these regulations.

(d) Failure to report to the Department any change in staff or program which substantially deviates from the information contained in the application.

(e) Failure to comply with the administrative tasks and any other requirement of these regulations.

(4) Training Provider Administrative Tasks. Accredited training providers shall perform the following as a condition of accreditation:

(a) Administer the training course examination only to those students who successfully complete the training course.

(b) Issue a numbered certificate to each students who successfully passes the training course examination. Each certificate shall include the name of the student, name of the course completed, the dates of the course and the examination, name of the training provider, a unique certificate number, and a statement that the student passed the examination.

(c) Issue a photo identification card to each student seeking initial or renewal certification who successfully completes the training course examination and meets all other requirements for certification. The photo identification card shall meet the Department specifications.

(d) Place a label on the back of the photo identification card of each student who successfully completes a refresher training course and examination as required to maintain certification. The label shall meet Department specifications.



(e) Provide to the Department within ten (10) calendar days of the conclusion of each course offering the name, address, telephone number, Social Security Number, course title and dates given, attendance record, exam scores, and course evaluation form of each student attending the course and the certification number, certification fee, and a photograph for each student certified. Record of the information shall be retained by the training provider for a period of three (3) years.

(f) Obtain advance approval from the Department for any changes in the course instructional staff, content, training aids used, facility utilized or other matters which would alter the instruction from that described in the approval application.

(e) Utilize and distribute as part of the course information or training aides furnished by the Department.

(f) Notify the Department in writing at least one week before a training course is scheduled to begin. The notification must include the date, time and address where the training will be conducted.

(g) Establish and maintain course records and documents relating to course accreditation application. Accredited training providers shall make records and documents available to the Department upon request. Training providers whose principle place of business is outside of the State of Oregon shall provide a copy of such records or documents within ten (10) business days of receipt of such a written request from the Department.

(h) Notify the Department prior to issuing a replacement certification card.

(i) Accredited training providers must have their current accreditation certificates at the location where they are conducting training.

#### 340-33-070 GENERAL TRAINING STANDARDS

(1) Courses of instruction required for certification shall be specific for each of the certificate categories and shall be in accordance with Department guidelines. The topics or subjects of instruction which a person must receive to meet the training requirements must be presented through a combination of lectures, demonstrations, and hands-on practice.

(2) Courses requiring hands-on training must be presented in an environment suitable to permit participants to have actual experience performing tasks associated with asbestos abatement. Demonstrations not involving individual participation shall not substitute for hands-on training.

(3) Persons seeking certification as a Supervisor for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least four days as outlined in the DEQ Asbestos Training Guidance Document. The training course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and a written examination consisting of multiple choice questions. Successful completion of the training shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in the hands-on training.

(4) Any person seeking certification as a Worker for Full-Scale Asbestos Abatement shall successfully complete an accredited training course of at least three days duration as outlined in the DEQ Asbestos Training Guidance Document. The training course shall include lectures, demonstrations, at least six hours of actual hands-on

training, individual respirator fit testing, course review, and an examination of multiple choice questions. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in the hands-on training. The course shall adequately address the following topics:

(5) Any person seeking certification as a Worker for Small-Scale Asbestos Abatement shall complete at least a two day approved training course as outlined in the DEQ Asbestos Training Guidance Document. The small-scale asbestos abatement worker course shall include lectures, demonstrations, at least six hours of hands-on training, individual respirator fit testing, course review, and an examination of multiple choice questions. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in the hands-on training.

(6) Refresher training shall be at least one day duration for Certified Supervisors and Workers for Full-Scale Asbestos Abatement and at least three hours duration for Certified Workers for Small-Scale Asbestos Abatement. The refresher courses shall include a review of key areas of initial training, updates, and an examination of multiple choice questions as outlined in the DEQ Asbestos Training Guidance Document. Successful completion of the course shall be demonstrated by achieving a passing score on the examination, course attendance, and full participation in any hands-on training.

(7) One training day shall consist of at least seven hours, of actual classroom instruction and hands-on practice.

#### **340-33-080 PRIOR TRAINING**

Successful completion of an initial training course not accredited by the Department may be used to satisfy the training and examination requirements of OAR 340-33-050 and OAR 340-33-060 provided that all of the following conditions are met.

(1) The Department determines that the course and examination requirements are equivalent to or exceed the requirements of OAR 340-33-050 and 340-33-060 and the asbestos training guidance document, for the level of certification sought. State and local requirements may vary.

(2) If the training was completed prior to January 1, 1987, the applicant must demonstrate to the Department that additional experience sufficient to maintain knowledge and skills in asbestos abatement has been obtained in the interim.

(3) The applicant who has received recognition from the Department for alternate initial training successfully completes an Oregon accredited refresher course and refresher course examination for the level of certification sought.

#### **340-33-090 RECIPROCITY**

The Department may develop agreements with other jurisdictions for the purposes of establishing reciprocity in training, licensing, and/or certification if the Department finds that the training, licensing and/or certification standards of the other jurisdiction are at least as stringent as those required by these rules.

340-33-100 FEES

(1) Fees shall be assessed to provide revenues to operate the asbestos control program. Fees are assessed for the following:

- (a) Contractor Licenses
- (b) Worker Certifications
- (c) Training Provider Accreditation
- (d) Asbestos Abatement Project Notifications

(2) Contractors shall pay a non-refundable license application fee of:

(a) Three hundred dollars (\$300) for a one year Full-Scale Asbestos Abatement Contractor license.

(b) Two hundred dollars (\$200) for a one year Small-Scale Asbestos Abatement Contractor license.

(3) Workers shall pay a non-refundable certification fee of:

(a) One hundred dollars (\$100) for a two year certification as a certified Supervisor for Full-Scale Asbestos Abatement.

(b) Eighty dollars (\$80) for a two year certification as a Certified Worker for Full-Scale Asbestos Abatement.

(c) Fifty dollars (\$50) for a two year certification as a Certified Worker for Small-Scale Asbestos Abatement.

(4) Training Providers shall pay a non-refundable accreditation application fee of:

(a) One thousand dollars (\$1000) for a one year accreditation to provide a course for training supervisors on Full-Scale projects.

(b) Eight hundred dollars (\$800) for a one year accreditation to provide a course for training workers on Full-Scale projects.

(c) Five hundred dollars (\$500) for a one year accreditation to provide a course for training workers on Small-Scale projects.

(d) Two hundred and fifty dollars (\$250) for a one year accreditation to provide a course for refresher training for any level of certification.

(5) Requests for waiver of fees shall be made in writing to the Director, on a case-by-case basis, and be based upon financial hardship. Applicants for waivers must describe the reason for the request and certify financial hardship. The Director may waive part or all of a fee.

Note: The requirements and jurisdiction of the Department of Insurance and Finance, Accident Prevention Division and any other state agency are not affected by these rules.

(Adopted May 17, 1987; effective January 1, 1989)

OAR33.2 (5/89)

**RULEMAKING STATEMENTS**

**FOR**

**PROPOSED ADOPTION OF A TEMPORARY RULE  
RELATING TO EXPERIENCE REQUIREMENTS FOR CERTIFIED  
SUPERVISORS FOR FULL-SCALE ASBESTOS ABATEMENT**

Pursuant to ORS 183.335, these statements provide information on the intended action to adopt a rule.

**STATEMENT OF NEED:**

Legal Authority

The Commission has authority to carry out its duty by adopting rules under ORS 468.875 to 468.899, Asbestos Abatement Projects.

Need for the Rule

A Certified Supervisor for Full-Scale Asbestos Abatement is required to oversee full-scale asbestos abatement projects. Public and private schools would like to conduct their own full-scale abatement projects so as to retain control of the projects and realize project savings, but are precluded from this due to the experience requirements of the present rules. Most school maintenance people do not have three months of abatement experience or the time on supplied respirators needed to become Certified Supervisors for Full-Scale.

Furthermore, changing Federal AHERA rules (Asbestos Hazard Emergency Response Act) will have the effect of increasing school asbestos abatement costs after the summer of 1989. Allowing schools to conduct their own abatement jobs prior to October 1989 will help them save additional funds before the AHERA window is closed. The Department has received verbal comments from school administrators stating that abatement projects not completed this summer will become cost-prohibitive. Increased exposure of children and school employees to asbestos could result from delays in conducting asbestos abatement. This rule change will also effect other facilities which do in-house asbestos abatement.

### Effective Date of Rule

This rule shall become effective upon filing with the Secretary of State. The rule shall be in effect for six months.

Failure by the Department to act now will have a negative effect upon the removal of asbestos in schools by reducing the amount of asbestos actually removed in the Summer of 1989. Failure to act promptly could result in serious health effects for children and adults exposed to asbestos in schools, and will result in serious prejudice to the interest of all parties concerned in this matter.

### Principle Documents Relied Upon

- A. ORS Chapter 468.875 through 468.899
- B. OAR Chapter 340, Division 33
- C. Letters addressed to DEQ expressing concern about the experience requirements for Full-Scale Supervisors.

### Land Use Compatibility Statement

The proposed rule does not appear to effect land use.

### Fiscal and Economic Impact

1. Other State Agencies:

This change would make it more feasible for state agencies to conduct in-house asbestos abatement. The agency would incur training costs (approximately \$350/full-scale work and \$500/supervisor work), and certification costs (\$100/biennium), for each maintenance person certified as a supervisor for full-scale abatement. There will also be equipment costs which vary with the size of the project. Compared to the cost of hiring an asbestos abatement contractor, this could be a significant savings for the agency doing full-scale abatement.

2. Municipalities, Education Service Districts:

The primary impact will be felt in public or private schools, kindergarten through the twelfth grades. According to letters from school maintenance personnel, significant savings will be realized if the schools could conduct their own asbestos abatement. The cost of training people and procuring equipment will be the same as in #1 above. School savings are offset by conducting the work at below the \$10-\$12 per square foot usually charged by abatement companies.

3. Small Business:

This rule cuts in several directions, having different effects depending on small business interests. The obvious positive effects include more business for certified asbestos trainers, increased retail sales of abatement gear, and savings for schools (not really small business) on abatement. On the negative side, the market for established full-scale abatement companies could be reduced. Overall, the small business impact is negligible.

4. All Business:

The removal of asbestos has a negative effect on the economy; in that nothing is produced and nothing is sold. A positive effect on business and society will be the preservation of good health and the elimination of the social costs of medical care for those affected with asbestos associated disease.

5. DEQ:

The proposed rule would increase the number of persons applying to be certified. This would not require any changes in staff needs. Program revenues would increase by \$100.00 per biennium for each additional supervisor certified.

BEA:k  
ASB\AK1835

BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

In the Matter of a Variance            )    VARIANCE ORDER  
for Workers Who Disturb or            )  
Remove Asbestos in Residential        )  
Facilities                                )

Legal Authority

The Environmental Quality Commission is authorized to grant variances under ORS 468.345 and 468.893.

Findings

The Environmental Quality Commission finds:

That the trained work force is not available in sufficient numbers to perform all residential asbestos abatement projects in the state;

That the lack of trained workers is due to the low level of residential industry awareness of licensing and certification requirements;

That the cost of liability insurance for asbestos removal is so high as to preclude either licensed or unlicensed firms from conducting asbestos abatement;

That licensed full-scale asbestos abatement firms are not willing to undertake residential asbestos abatement due to the uneconomical nature of small-scale residential work;

Finally, there is a public health or worker danger created due to inadequate numbers of appropriately licensed or certified persons to properly perform asbestos abatement activities.

Under ORS 468.345 the Commission may issue variances to any rule to specific persons, class of persons or specific source provided certain conditions are met. Contractors who perform work on or in residential buildings have been effected by special circumstances, including exorbitant insurance costs which have discouraged licensure and certification. Strict application of these rules would be impossible and, if enforced, would result in the curtailment of residential contracting and the closure of some businesses, with many persons conducting residential asbestos abatement underground.

Variance Order  
EQC Meeting: June 2, 1989  
Page 2

Scope of Variance

This Variance applies to OAR 340-25-465(4), OAR 340-33-030(1)-(6) and (9) and OAR 340-33-050(1). All other rules in OAR Chapter 340 Divisions 25 and 33 remain in effect.

This Variance applies to those persons who disturb or remove asbestos-containing materials from residential buildings with fewer than four dwelling units.

Effective Date and Date of Termination

This variance becomes effective upon adoption by the Commission and terminates January 1, 1990.

IT IS SO ORDERED

ON BEHALF OF THE ENVIRONMENTAL  
QUALITY COMMISSION

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fred Hansen, Director  
Department of Environmental Quality

ASB\AK1848 (5/89)



BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
OF THE STATE OF OREGON

In the Matter of a Variance            )    VARIANCE ORDER  
for Workers Who Disturb or            )  
Remove Asbestos in Residential        )  
Facilities                                )

Legal Authority

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Findings

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That the lack of trained workers is due to the low level of residential industry awareness of licensing and certification requirements;

That the cost of liability insurance for asbestos removal is so high as to preclude either licensed or unlicensed firms from conducting asbestos abatement;

That licensed full-scale asbestos abatement firms are not willing to undertake residential asbestos abatement due to the uneconomical nature of small-scale residential work;

Finally, there is a public health or worker danger created due to inadequate numbers of appropriately licensed or certified persons to properly perform asbestos abatement activities.

Under ORS 468.345 the Commission may issue variances to any rule to specific persons, class of persons or specific source provided certain conditions are met. Contractors who perform work on or in residential buildings have been effected by special circumstances, including exorbitant insurance costs which have discouraged licensure and certification. Strict application of these rules would be impossible and, if enforced, would result in the curtailment of residential contracting and the closure of some businesses, with many persons conducting residential asbestos abatement underground.

Variance Order  
EQC Meeting: June 2, 1989  
Page 2

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This Variance applies to OAR 340-25-465(4), OAR 340-33-030(1)-(6) and (9) and OAR 340-33-050(1). All other rules in OAR Chapter 340 Divisions 25 and 33 remain in effect.

This Variance applies to persons who disturb or remove asbestos containing materials during repair, remodeling or renovation of residential structures with four or fewer dwelling units. Persons engaged in the demolition of entire residential structures are not included under this Variance

Effective Date and Date of Termination

This variance becomes effective upon adoption by the Commission. The variance shall terminate January 1, 1990, or earlier if Commission review indicates a lack of substantive ~~programs~~ *process* prior to October 30, 1989.

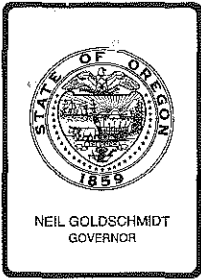
IT IS SO ORDERED

ON BEHALF OF THE ENVIRONMENTAL  
QUALITY COMMISSION

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fred Hansen, Director  
Department of Environmental Quality

ASB\AK1848C (5/89)



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### REQUEST FOR EQC ACTION

Meeting Date: June 2, 1989

Agenda Item: N

Division: Hazardous & Solid Waste

Section: HW Facilities Mgmt. Sec.

#### SUBJECT:

Chem-Security Systems, Inc. Permit: Environmental Quality Commission (Commission) approval of modifications to the permit for the Hazardous Waste Disposal Facility at Arlington.

#### PURPOSE:

To modify the permit pursuant to a request by Chem-Security Systems, Inc.

#### ACTION REQUESTED:

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item  for Current Meeting
  - Other: (specify)
  
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment
  - Rulemaking Statements Attachment
  - Fiscal and Economic Impact Statement Attachment
  - Public Notice Attachment
  
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment
  
- Approve Department Recommendation
  - Variance Request Attachment
  - Exception to Rule Attachment
  - Informational Report Attachment
  - Other: Approve modifications to permit Attachment A

Meeting Date: June 2, 1989  
Agenda Item: N  
Page 2

DESCRIPTION OF REQUESTED ACTION:

The proposed modifications, 21 in all, consist of the following:

- o Four modifications to clarify and facilitate implementation of the permit (Appendix A, Nos. 1, 8, 10 and 21).
- o Four modifications to permit minor construction changes to hazardous waste management units (Appendix A, Nos. 5, 9, 18 and 19).
- o Six modifications to permit minor changes in operating procedures (Appendix A, Nos. 6, 7, 11, 12, 17, and 20).
- o Three modifications to permit updating operating plans (Appendix A, Nos. 13, 15, and 16).
- o Three modifications to correct typographical errors (Appendix A, Nos. 3, 4, and 14).
- o One modification to reflect recent revisions in the hazardous waste management rules (Appendix A, No. 2).

Several of the modifications are worth highlighting (see Appendix A):

- o No. 5 would increase the capacities of the stabilization unit and the reactive solids hydrolysis unit from 135,000 gallons to 180,000 gallons, enabling Chem-Security, at any time, to process increased amounts of waste.
- o No. 7 would permit Chem-Security to clean the exterior of vehicles by using dry cleaning methods such as brooms and scrapers for up to 30 days in the event the truck wash system cannot operate. This is an emergency procedure to be used until the system can be repaired.
- o Nos. 17 and 18 would permit Chem-Security to store the universe of hazardous wastes. This will provide for safe handling of certain hazardous wastes, a service which may otherwise not be available to Oregon generators. Treatment or disposal of wastes on the list will still not be permitted.
- o No. 18 would also permit Chem-Security to store hazardous waste in the PCB storage building when no PCB is being stored there.



Meeting Date: June 2, 1989  
Agenda Item: N  
Page 4

- o Minor construction changes to the hazardous waste units and the minor changes in operating procedures will streamline the operation and make it more efficient.
- o Updating the operating plans will reflect changes in personnel and operating procedures.

It is believed that the proposed modifications will have no effect on other persons or property owners in the vicinity of the Chem-Security site or on persons using the Chem-Security site.

**PROGRAM CONSIDERATIONS:**

Clarifying the permit makes it somewhat easier to enforce but there is no measurable impact on Department resources.

**ALTERNATIVES CONSIDERED BY THE DEPARTMENT:**

The Department and the EPA carefully evaluated each modification proposed by Chem-Security. Some were revised to address the agencies' concerns. All the proposed modifications, as revised, are recommended for approval.

**DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:**

The permit modifications were requested because operating unit modifications, operating changes, and difficulties in interpreting permit language make it desirable to modify portions of the permit.

The proposed modifications are believed to be beneficial to both the regulatory agencies and the permittee and are recommended for approval as proposed.

**CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:**

Yes.

**ISSUES FOR COMMISSION TO RESOLVE:**

None.

Meeting Date: June 2, 1989  
Agenda Item: N  
Page 5

INTENDED FOLLOWUP ACTIONS:

- o Obtain EPA signature on permit cover page.
- o Revise appropriate pages in permit and mail copies to permit holders.

Approved:

Section:

Bret McKnight

Division:

Stephanie Hallock

Director:

Roycia Taylor

Report Prepared By: Fred Bromfeld

Phone: 229-6210

Date Prepared: April 7, 1989

FB:b  
ZB8553  
May 16, 1989

1. Add definition "1" as follows:

1. The term "daily" shall mean only those days which the Permittee considers to be regular work days.

Reason for Addition:

This definition was agreed to on March 2, 1988 to define it as used in permit conditions such as V.A.(11)(c) and VI.B.(7)(f).

2. Modify Permit Condition I.D.(3) as follows:

I.D.(3) Except as provided by specific language in this permit [~~or except for the Director's and the Administrator's approval of a minor permit modification in accordance with 40 CFR §270.42~~], any [approved] modification or change in design or operation of this facility or [~~any approved modification or change~~] in a hazardous waste management practice covered by this permit must be done [~~administered as a major permit modification prior to such change taking place;~~] in accordance with 40 CFR §§270.41 and 270.42.



Reason for Modification:

To account for recent changes in the permit modification procedures as governed by 40 CFR §§270.41 and 270.42.

3. Modify Permit Condition I.Q. as follows:

I.Q. The Permittee shall give advance notice to the Manager and the Administrator [~~Manager~~] of any planned changes in the permitted facility or activity that might result in noncompliance with permit requirements.

Reason for Modification:

To correct a typographical error.

4. Modify Permit Condition II.A.(2) as follows:

II.A.(2) The Permittee shall construct all future waste management units in accordance with the approved designs and specifications that are included in Attachment 10 and Attachments 12 through 25 [~~26~~] of this permit, except for minor changes deemed necessary by the Permittee to

facilitate proper construction of the units. Minor deviations from the approved designs or specifications necessary to accommodate proper construction must be noted on the as-built drawings and the rationale for those deviations must be provided in narrative form. After completion of construction of each future waste management unit, the Permittee shall submit final as-built drawings and the narrative report to the Manager and the Administrator as part of the construction certification document specified in permit condition I.P.(1).

Reason for Modification:

To correct error in citation.

5. Modify Permit Conditions IV.D.(1) and IV.E.(1) as follows:

IV.D.(1) The proposed Stabilization Unit shall consist of six [three] inground steel tanks, with a capacity of approximately 30,000 [45,000] gallons each. The design of each tank and the secondary containment structure shall be as described in Attachment 14 and as specified in Figures D.4-2 and D.4-3 of Attachment 14.

IV.E.(1) The proposed Reactive Solids Hydrolysis Unit shall consist of three inground steel tanks, with a capacity of approximately 30,000 [45,000] gallons each. The design of each tank and the secondary containment structure shall be as described in Attachment 15 and as specified in Figures D.5-4 and D.5-5 of Attachment 15.

Reason for Modification:

Change in size of tanks. Refer also to Items 19 & 20.

6. Modify Permit Conditions IV.D.(2) and IV.E.(2) as follows:

IV.D.(2) The Permittee may treat any of the RCRA wastes which are listed on the Part A permit application, included as Attachment 11 of this permit, except that the wastes listed in Attachment 11, Table 1-2 shall not be treated in the Stabilization Unit tanks. Additionally, if any waste is water reactive, has a pH less than or equal to 2. [~~corrosive (as defined by 40 CFR §261.22);~~] or incompatible with other wastes already in the tank, based on the compatibility assessment as specified in the Waste Analysis Plan, Attachment 2 of this permit, such waste shall not be placed in that tank.

IV.E.(2) The Permittee may treat any water reactive wastes which are not listed in Attachment 11, Table 1-2, in the Reactive Solids Hydrolysis tanks. Additionally, if any waste, or the reaction product or residue of the treatment of such waste has a pH less than or equal to 2 or is ~~is corrosive-(as defined by 40 CFR §261.22); -or~~ incompatible with other wastes already in the tank, based on the compatibility assessment as specified in the Waste Analysis Plan, Attachment 2 of this permit, such waste shall not be placed in that tank.

Reason for Modifications:

To permit the treatment of caustic wastes which are compatible with the steel tanks.

7. Modify Permit Condition IV.F.(2) as follows:

IV.F.(2) The liquid waste placed in the Truck Wash Tank System shall consist of only the contaminated rinse water which accumulates in the process of washing: (a) the exterior of empty vehicles or other equipment in the truck washing facility, or (b) the interior of emptied containers, including roll off boxes, returnable DOT approved containers and end dumps. In addition, bulk waste loads may be

temporarily stationed in the Truck Wash Tank System, if they are leaking on arrival at the facility, in order to avoid releases to the environment. The rinsing of the exterior of vehicles, as described in (a), is required by this permit. The rinsing and other activity, as described in (b), is not required by this permit, but may be conducted by the Permittee at its discretion.

Nonliquid hazardous waste, such as fly ash, or other nonhazardous stabilizing agent as specified in Attachment 14, may also be added to the sludge settling tank on an as needed basis for the purpose of stabilizing accumulated sludge prior to placement in a landfill unit. All procedures for stabilization of solids or sludges shall be equivalent to the procedures required in permit condition IV.D..

In the event the Truck Wash System is not capable of operation, the permittee may use dry cleaning methods (i.e., brooms, scrapers, etc.) to clean the exterior of vehicles and release vehicles based on visual inspections. The permittee shall return the Truck Wash System to operation as soon as reasonably possible. In no event, after thirty (30) days during which the Truck Wash System does not operate, shall a vehicle that has been in the active portion of a landfill be released from the facility unless it has been rinsed in the Truck Wash System as described in (a) or the permittee has

received written permission from the Department to use an alternative cleaning method.

Reason for Modification:

To permit the cleaning of vehicles in the event of temporary incapacity of the truck wash.

8. Modify Permit Conditions VI.A.(2)(c)(1), VI.A.(2)(c)(2), VI.B(2)(c)(1) and VI.B.(2)(c)(2) as follows:

VI.A.(2)(c)(1) The Permittee shall not dispose of any waste which was generated as a liquid and was then stabilized by the generator (or another off-site treatment facility) unless the Permittee has conducted testing to ensure that the waste has been properly stabilized, (i.e., achieves the appropriate treatment standard required by 40 CFR 268 or a minimum of one ton per square foot load bearing capacity [~~has been achieved~~]). Such testing shall be done by the Permittee, using sampling and analytical methods outlined in Attachment 2 (Waste Analysis Plan), and Attachment 14 (Stabilization Unit -- Design and Operations). Records of such analyses shall be maintained in the operating record for a minimum period of three years. This permit condition [VI.A.(2)(c)(1)] shall not apply if the Permittee complies with permit condition VI.A.(2)(c)(2).

VI.A.(2)(c)(2) As an alternative to the testing by the Permittee specified in permit condition VI.A.(2)(c)(1), the Permittee shall maintain documentation supplied by the generator (or another off-site treatment facility) that proper stabilization has been achieved. Documentation from the generator (or another off-site treatment facility) must contain a description of the stabilization procedures used, including a signed certification that the stabilized waste passed criteria equivalent to the Stabilization Evaluation Test, (i.e., achieves the appropriate treatment standard required by 40 CFR 268 or a minimum of one ton per square foot load bearing capacity within 24 hours after stabilization), as specified in Attachment 2 of this permit. The Permittee shall maintain such documentation in the operating record for a minimum period of three years.

VI.B.(2)(c)(1) The Permittee shall not dispose of any waste which was generated as a liquid and was then stabilized by the generator (or another off-site treatment facility) unless the Permittee has conducted testing to ensure that the waste has been properly stabilized, (i.e., achieves the appropriate treatment standard required by 40 CFR 268 or a minimum of one ton per square foot load bearing capacity [~~has been achieved~~]). Such testing shall be done by the Permittee, using sampling and analytical methods outlined in Attachment 2 (Waste Analysis Plan), and Attachment 14 (Stabilization Unit -- Design and Operations). Records of

such analyses shall be maintained in the operating record for a minimum period of three years. This permit condition [VI.B.(2)(c)(1)] shall not apply if the Permittee complies with permit condition VI.B.(2)(c)(2).

VI.B.(2)(c)(2) As an alternative to the testing by the Permittee specified in permit condition VI.B.(2)(c)(1), the Permittee shall maintain documentation supplied by the generator (or another off-site treatment facility) that proper stabilization has been achieved. Documentation from the generator (or another off-site treatment facility) must contain a description of the stabilization procedures used, including a signed certification that the stabilized waste passed criteria equivalent to the Stabilization Evaluation Test, (i.e., achieves the appropriate treatment standard required by 40 CFR 268 or a minimum of one ton per square foot load bearing capacity within 24 hours after stabilization), as specified in Attachment 2 of this permit. The Permittee shall maintain such documentation in the operating record for a minimum period of three years.

Reason for Modification:

Currently CSSI is required to perform the Stabilization Evaluation Test (SET) on wastes being stabilized at the site. At the same time CSSI must conduct other tests on certain wastes being stabilized. For instance, CSSI must conduct the Toxicity Characteristic Leaching



Procedure (TCLP) to meet land ban treatment standards for some stabilized wastes. Thus, in effect, CSSI must conduct two tests for some wastes such as land ban wastes to prove proper stabilization. This is felt to be redundant.

It is proposed to modify the Waste Analysis Plan (WAP) so that the SET currently in the WAP is conducted only on those wastes being stabilized which do not have to meet other standards. For the latter wastes, a modified SET tailored to the required waste treatment would be used. For instance, on land disposal restricted wastes, a new procedure which substitutes the TCLP or other required test for the current SET would be implemented. A successful test would be one in which the resultant mixture meets the required treatment standards.

See also Item 12, below.

9. Modify Permit Conditions IX.A.(3)(a) and IX.A.(3)(b) as follows:

IX.A.(3)(a) "Level 1 Piezometers" (Level 1 being the upper level of the Selah aquifer, with the water table within the screened zone) shall consist of ~~{22}~~20 piezometers, as listed below:

W9	2E	Y	2C	3C	[W]	2L
S	30	[F]	2N	2M	2Vb	3A
2X	20	3I	3H	4P	3J	2P

V.

IX.A.(3)(b) "Level 2 Piezometers" (Level 2 being the lower zone of the Selah aquifer, with the bottom of the screened interval at the base of the saturated zone) shall consist of 33 piezometers, as listed below:

W9	<u>2I</u>	<del>{2F}</del>	3C	2J	<u>2D</u>	<del>{W}</del>	2K	2L
S	X		J	3O	2H	2B		I
3F	2N		2M	3V	2V	3U		3A
MW1	2X		F	2O	3I	3H		4Pa
2P	3Y		G	Va	H.			

Reason for Modification:

Piezometer 2F-2 is dry and W no longer exists. They are being replaced by piezometers 2I-2 and 2D-2, respectively. Piezometer T is in an area designated to be a runoff collection basin. Since the area is already bracketed by other piezometers, no replacement is necessary.

10. Modify Permit Condition IX.E.(3) as follows:

IX.E.(3) After purging the monitoring well, the Permittee shall collect samples for volatile organic analyses, (as listed in Attachment 10, Table 6-1), no earlier than 16 hours and no later than 32 hours after purging. The Permittee may commence sampling prior to 16 hours after purging if three feet of recharge occurs. ~~{as-soon-as-reasonably-possible~~

~~after three feet of recharge has occurred, in order to minimize the time between purging and sampling.]~~ For wells provided with dedicated sampling equipment, the three feet of recharge shall be measured from the top of the sampling pump. For wells without dedicated sampling equipment, the three feet of recharge shall be measured from the bottom of the well.

Reason for Modification:

To modify the time after purging for VOC sampling in a monitoring well. To alleviate problems with sampling by specifying a sampling time rather than the amount of water in a well. The time is based on well data and attempts to strike a balance between sampling too soon when insufficient water might lead to aeration and too late when there might be VOC volatilization losses.

11. Modify Permit Condition IX.E.(4) as follows:

IX.E.(4) Any of the following specific analytical methods referenced from the following documents may be used in analyses of groundwater samples:

- o Third Edition of EPA SW-846 ("Test Methods for Evaluating Solid Waste, Physical/Chemical Methods");

- o EPA Method 624 (40 CFR Part 136) (for Volatile Organic Compounds only);
- o EPA/600-4-79-020.

<u>Parameter</u>	<u>SW-846 Method</u>	<u>600-4-79-020 Method</u>
Volatile Organics:	8240	N/A, use Method 624
Arsenic:	7060	206
Cadmium:	6010	<u>200.7</u> [213]
Chromium:	6010	<u>200.7</u> [218]
Copper:	6010	<u>200.7</u> [220]
Cyanide:	9012	335.1, 335.2, or 335.3
pH:	9040	150.1
Specific conductance:	9050	120.1

In addition, analytical methods for any other parameters that are required by this permit (including 40 CFR Part 264 Appendix IX constituents), shall be the appropriate methods for such parameters, as specified in the above referenced documents.

Reason for Modification:

To permit alternate acceptable methods of analysis.

12. Modify Permit Attachment 2 as indicated in Appendix 1.

Permit Attachment 2 consists of selected portions of permittee's Waste Analysis Plan (WAP).

Reason for Modification:

To:

- a. Modify portions of the WAP in response to the First Thirds Land Disposal Restrictions. This includes narrative changes, deleting obsolete forms and adding procedures for metals analysis.
  - b. Modify the Stabilization Evaluation Test in conjunction with Item 8, above.
  - c. Incorporate other minor modifications such as a name change for the test demonstrating flammability.
13. Modify Permit Attachment 4 as indicated in Appendix 2.

Permit Attachment 4 consists of permittee's Inspection Plan.

Reason for Modification:

To remove Toxic Substances Control Act (TSCA) requirements and to revise a number of inspection forms.

14. Modify Permit Attachment 6 as indicated in Appendix 3.

Permit Attachment 6 consists of permittee's Hazards Prevention procedures.

Reason for Modification:

To correct a typographical error listing an electric generator as 100 kw instead of the actual 10 kw size (E-9) and to recognize changes in a storage facility and its operation (E-12).

15. Modify Permit Attachment 7 as indicated in Appendix 4.

Permit Attachment 7 consists of permittee's Contingency Plan.

Reason for Modification:

To:

- a. Update site emergency equipment.
- b. Remove outdated information such as units which are closed.
- c. Delete reference to TSCA and non-regulated operations.

16. Modify Permit Attachment 8 as indicated in Appendix 5.

Permit Attachment 8 consists of the Closure and Postclosure Plans.

Reason for Modification:

Housekeeping changes to delete non-RCRA units and update the closure plan to reflect the current status of the site.

17. Modify Permit Attachment 11 as indicated in Appendix 6.

Permit Attachment 11 consists of a description of hazardous wastes managed at the site.

Reason for Modification:

To revise the list to permit the site to store the universe of hazardous wastes. This will provide for safe handling of certain hazardous wastes, a service which may otherwise not be available to Oregon generators. Treatment or disposal of wastes on the list will still not be permitted.

See associated Item 18, below.

18. Modify Permit Attachment 12 as indicated in Appendix 7:

Permit Attachment 12 consists of the design and operation of the container storage units.

Reason for Modification:

To:

- a. Modify the main container storage unit (S-9) to provide additional storage for reactive wastes as necessitated by the action in Item 17, above.

A liquid tight 4 foot steel wall will be erected between the two southernmost bays of S-9. The reactives will be stored in the southern bay. Toxics will be stored in the interior bay near the steel wall or the bay will remain empty. When no reactives are stored on site, the two bays will again be dedicated for other uses.

- b. Provide a procedure to allow the existing PCB storage building (S-2B) to be used for hazardous wastes.



19. Modify Permit Attachment 14 as indicated in Appendix 8.

Permit Attachment 14 consists of the design and operation of the stabilization unit.

Reason for Modification:

To:

- a. Replace the stabilization bin design plans with "as-built" plans.
- b. Reflect the changes made in Permit Condition IV.D.(1) (See Item 5).

20. Modify Permit Attachment 15 as indicated in Appendix 9.

Permit Attachment 15 consists of the design and operation of the reactive solids hydrolysis unit. The unit has not yet been built.

Reason for Modification:

To revise the operating procedure and make several housekeeping changes.

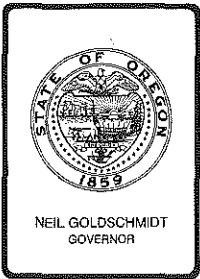
21. Modify Permit Condition I.D.(2) as follows:

I.D.(2) The filing of a request for a permit modification, or revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance on the part of the Permittee shall not stay the applicability or enforceability of any permit condition except as provided in 40 CFR §§ 270.41, 270.42, 270.43, and OAR Divisions 105 and 106.

Reason for Modification:

Clarification of permit condition as it relates to hazardous waste rules.

The 9 appendices to this Attachment consists of CSSI's plans and procedures and run in excess of 200 pages. As such, they are not being included with this Staff Report but are on file in the Hazardous and Solid Waste Division. They will be included in the mailing to permit holders when this action is completed.



ATTACHMENT B  
June 2, 1989 EQC Meeting  
Agenda Item #N

## *Environmental Quality Commission*

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

### HEARING OFFICER'S REPORT

Public Hearing on Proposal to Modify Chem-Security's Hazardous Waste Permit

Arlington, Oregon, 7:00 p.m., March 28, 1989

Four people registered, only Les Ruark testified.

Mr. Ruark requested that the comment period for written testimony be extended by seven days so that he could submit testimony which he hadn't completed.

Mr. Ruark withdrew this request by letter of March 30, 1989.

The meeting was held open until 7:30 p.m. and closed when no one else requested to testify.

Hearing Officer  
Fred Bromfeld

FB:b  
Attachment

ZB8444

B-1

RESPONSE TO COMMENTS

Proposal to Modify Chem-Security's Hazardous Waste Permit

Three letters of written comment were received.

Comments by Concerned Oregonians for Proper Waste Disposal, March 28, 1989

1. Comment: "Page 6 No. 7. Modify permit condition IV F.(2) as follows:

In the event the facility truck wash is out of service, another backup wet system should be used instead of simply sweeping off the truck and trailer with a broom."

Response: The truck wash system consists of both a water delivery system and a removal system for the contaminated water. So, to provide a true backup system would require duplicating both the delivery and removal systems.

We do not think that the situation caused by an inoperable wet system warrants duplicate systems.

However, recognizing the environmental benefits of expeditiously returning the truck wash to service, we have modified the proposed condition to require that it be made operable within 30 days or that CSSI cease the activity which the truck wash is meant to address; i.e., trucks from the landfills. Please see proposed modification no. 7 for revision.

2. Comment: "Appendix I; permit attachment 2: sampling methodology 2.0:

If CSSI samples loads only for constituents found in representative samples sent for prior approval, DEQ needs to ensure that the sampling is effective even though it would utilize a "less comprehensive sampling and analytical approach."

Response: 40 CFR 262.11 requires a generator to analyze its waste to determine whether and what type of hazardous waste is being generated. 40 CFR 264.13 requires CSSI to also have an analysis of the waste but allows CSSI to arrange for the generator to provide the analysis.

Inspections have shown that the procedure used by CSSI to require the generator to analyze the waste but to verify that analysis with a "less comprehensive sampling and analytical approach" is both effective and within the rules of the agencies.

3. Comment: "Contingency Plan: If, in an unlikely event, an accident at the facility were to move off site, CSSI needs to be aware that farmers and ranchers adjacent to the site may be working at their operations and away from any phone system to warn them. Therefore, the company should have as part of their contingency plan, a way to notify ranchers by driving a route if the people cannot be reached by phone."

Response: We believe the present warning system is adequate to notify any persons that may be affected. This includes notifying the authorities designated for emergency response of the problem and the sounding of a siren located on the water tower.

According to CSSI, that siren can be heard 2-5 miles from the site as has been reported to CSSI by the site's neighbors Messrs. Davis and Yutzie. As such, this is believed to be more effective in protecting persons on adjacent property than in engaging in an individual search for any person wherever on the property they may happen to be.

4. Comment: "Post-Closure Plan: 2.3.2 Erosion Control and Maintenance of Cover and Vegetation. Concerned Oregonians would like to see the company consult with the local Soil Conservation Service (SCS) regarding cover grasses planted, seeding practices, weed control for the cover crop, prior to establishing a grass stand or before borrowing topsoil from one area to replace eroded soil from a waste repository area."

Response: This was done as part of the permit application. The vegetation to be established after closure is given in the documents referenced on pp. 1-18 and 1-19 of the closure plan. It is a mixture of approximately 90% crested wheat grass and 10% Idaho fescue grass. These grasses are recommended by both the SCS and BLM for the climatic and soil conditions found in the site area.

Comments by Niedermeyer-Martin Co., February 8, 1989 were in support of the proposed modification.

Comments by CSSI, on February 6, 1989, March 28, 1989, March 30, 1989 and March 31, 1989. The response is included with each comment.

1. The comment on February 6, 1989 concerns piezometer T and is addressed in proposed modification No. 9.
2. The comment on March 28, 1989 concerns typos on p. 22 of the Inspection Plan and is addressed in proposed modification No. 13.
3. The comment on March 30, 1989 concerns changes to p. E-12 of the Hazards Prevention procedures (proposed modification No. 14) to recognize the changes made by proposed modification No. 17 and to make the procedures more consistent with the hazardous waste rules.
4. The comment on March 31, 1989 concerns changes to p. 39 of the Waste Analysis Plan. CSSI submitted proposed changes on June 17, 1988 and again on December 1, 1988. However, the submission in December (which is on public review) neglected to include the June changes. This comment provides both the June and December changes and has been included in proposed modification No. 12.

June 2, 1989 EQC Meeting  
Agenda Item 7N

Oregon Department of Environmental Quality

# A CHANCE TO COMMENT ON...

CHEM-SECURITY SYSTEMS REQUEST TO MODIFY THEIR HAZARDOUS WASTE PERMIT

Date Prepared: 1/20/89  
(If Held) Hearing Date: 3/28/89  
Comments Due: 3/28/89

WHO IS  
AFFECTED:

The affected party is Chem-Security Systems, Inc. (CSSI), Cedar Springs Road, Arlington, Oregon. CSSI has operated the Arlington hazardous waste disposal site since March, 1976 under a state permit and since March, 1988 under a joint state/federal RCRA permit.

WHAT IS  
PROPOSED:

At the request of CSSI, the DEQ and the U. S. Environmental Protection Agency (EPA) propose to modify CSSI's permit for the storage, treatment and disposal of hazardous waste. Under the rules of the DEQ, only the conditions subject to modification are open to comment.

WHAT ARE THE  
HIGHLIGHTS:

The proposed modifications, 21 in all, consist of administrative changes to clarify and facilitate implementation of the permit, minor construction changes to existing waste management units, and the updating of several plans and procedures. Three of the more important items are a proposal to store any hazardous wastes prior to shipping off-site (but not to treat or dispose), the storing of hazardous waste in the PCB storage building when it contains no PCB, and updating the Waste Analysis, Inspection, Contingency, and Closure/Post-Closure Plans.

It is believed that the proposed modifications do not invoke any land use issues beyond those which were considered during issuance of the permit in March, 1988.

HOW IS THE  
PUBLIC AFFECTED:

It is believed that the proposed modifications will have no effect on either persons or property owners in the vicinity of the site or on persons using the site.

WHERE TO GET  
ADDITIONAL  
INFORMATION:

The complete administrative record, consisting of the permit modification requests, proposed modifications, and all documents relating to the proposed modifications may be reviewed at the offices of either the DEQ, Portland, or EPA, Seattle, at the addresses listed below. A copy of the proposed modifications may be reviewed in the Arlington Public Library (Municipal Building), or the Gilliam County Public Library, 320 S. Main, Condon, OR.

HOW TO  
COMMENT:

Written comments must be received by 5:00 p.m., March 28, 1989, and should be mailed to either:

Fred Bromfeld  
Oregon DEQ  
811 S.W. Sixth Avenue  
Portland, OR 97204

George Hofer  
U.S. EPA Region 10  
1200 Sixth Avenue, HW-112  
Seattle, WA 98101

**FOR FURTHER INFORMATION:**

Contact the person or division identified in the public notice by calling 229-5696 in the Portland area. To avoid long distance charges from other parts of the state, call 1-800-452-4011.



811 S.W. 6th Avenue  
Portland, OR 97204

11/1/86



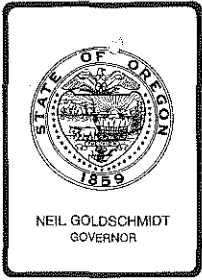
There will not be a public hearing unless a significant public interest in holding a hearing is communicated to DEQ by March 22, 1989. In the event sufficient requests for a public hearing are received, the agencies will conduct a public hearing on March 28, 1989. If held, the hearing will begin at 7:00 p.m. at:

Arlington Elementary School Cafeteria  
1400 Main Street  
Arlington, OR

To inquire if a hearing will be held, call Fred Bromfeld, DEQ, at (503) 229-6210.

WHAT IS THE  
NEXT STEP:

After the public comment period, the agencies will evaluate each modification considering all written comments received during the public comment period, prepare a response, and make a recommendation to the Environmental Quality Commission in June 1989. The Commission and the EPA may accept the modifications as proposed, or change or deny any modification.



## Environmental Quality Commission

811 SW SIXTH AVENUE, PORTLAND, OR 97204 PHONE (503) 229-5696

REQUEST FOR EQC ACTION

Meeting Date: June 2, 1989  
Agenda Item: 0  
Division: Management Services  
Section: Administration

**SUBJECT:**

Annual State/EPA Agreement -- an annual agreement between the Department of Environmental Quality (DEQ) and the U. S. Environmental Protection Agency (EPA).

**PURPOSE:**

This annually updated agreement establishes mutual understanding of program priorities and expected accomplishments for the next fiscal year (July 1, 1989 through June 30, 1990) and becomes the basis for federal funding assistance to DEQ.

**ACTION REQUESTED:**

- Work Session Discussion
  - General Program Background
  - Potential Strategy, Policy, or Rules
  - Agenda Item \_\_\_ for Current Meeting
  - Other: (specify)
  
- Authorize Rulemaking Hearing
- Adopt Rules
  - Proposed Rules Attachment \_\_\_
  - Rulemaking Statements Attachment \_\_\_
  - Fiscal and Economic Impact Statement Attachment \_\_\_
  - Public Notice Attachment \_\_\_
  
- Issue a Contested Case Order
- Approve a Stipulated Order
- Enter an Order
  - Proposed Order Attachment \_\_\_
  
- Approve Department Recommendation
  - Variance Request Attachment \_\_\_
  - Exception to Rule Attachment \_\_\_
  - Informational Report Attachment \_\_\_
  - Other: (specify) Attachment \_\_\_



Meeting Date: June 2, 1989  
Agenda Item: 0  
Page 3

REGULATED/AFFECTED COMMUNITY CONSTRAINTS/CONSIDERATIONS:

The agreement should not change relationships with the regulated or affected community.

PROGRAM CONSIDERATIONS:

The State/EPA Agreement is the basis for financial assistance from the EPA. It also provides mutual understanding of shared goals and proposed achievements.

ALTERNATIVES CONSIDERED BY THE DEPARTMENT:

None

DEPARTMENT RECOMMENDATION FOR ACTION, WITH RATIONALE:

The Department recommends the Commission accept the information report.

CONSISTENCY WITH STRATEGIC PLAN, AGENCY POLICY, LEGISLATIVE POLICY:

The State/EPA Agreement is expected to be consistent with the strategic plan, agency policy, and legislative policy.

ISSUES FOR COMMISSION TO RESOLVE:

None

INTENDED FOLLOWUP ACTIONS:

The Department will continue to negotiate with the EPA to reach agreement and sign the final document by July 1, 1989.

Meeting Date: June 2, 1989  
Agenda Item: 0  
Page 4

Approved:

Section: Lydia Taylor  
Division: Lydia Taylor  
Director: Lydia Taylor

Report Prepared By: Lydia Taylor

Phone: 229-6485

Date Prepared: May 30, 1989

LRT:1  
SEA  
5/30/89

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: May 26, 1989

TO: Environmental Quality Commission

FROM: Hearing Officer

SUBJECT: Hearing Report for Proposed State/EPA annual agreement hearing held April 14, 1989.

Summary of Procedure

As announced in the public notice, a public hearing was held on Friday, April 14, 1989, in Room 10A of the Executive Building (DEQ Headquarters). The purpose of the hearing was to receive testimony on the Department's proposed annual agreement with the Environmental Protection Agency which establishes mutual understanding of program priorities and expected accomplishments for the fiscal year of July 1, 1989 through June 30, 1990. Lydia Taylor, Administrator of the Department's Management Services Division served as hearings officer. Public notice appeared in the Oregonian newspaper on March 15, 1989 announcing the scheduling of the hearing. In addition, persons and organizations who have asked to be notified of events related to the State/EPA agreement were mailed notices of the hearing. The hearing lasted from 1:00 pm to 3 pm.

No person appeared to offer oral testimony nor was any written testimony submitted at the hearing.

STATE/EPA AGREEMENT  
STATE FISCAL YEAR 1990  
JULY 1, 1989 TO JUNE 30, 1990

BETWEEN

STATE OF OREGON  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
AND  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

EXECUTIVE DOCUMENT

**DRAFT**

2391C

Attachment B

OREGON STATE/EPA AGREEMENT

FY 1990

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SUMMARY OF PROGRAM RESOURCES	



FY 1990

**DRAFT**

STATE/EPA AGREEMENT

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

AND

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION 10

The undersigned, for the Oregon Department of Environmental Quality (DEQ) and the U.S. Environmental Protection Agency, Region 10 (EPA), enter into this agreement to manage programs which protect and enhance Oregon's environment in the following areas:

Air Quality Program  
Water Quality Program

Hazardous Waste Program  
Underground Storage Tank Program  
Environmental Cleanup Program

The agreement, known as the Oregon State/EPA Agreement (SEA), describes priorities, tasks, and resources which comprise the cooperative federal and state environmental management program in Oregon during fiscal year 1990. This agreement includes required work plans and is the application for EPA program grants by Oregon under provisions of the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act (for underground injection control).

This agreement covers the period of time from July 1, 1989, through June 30, 1990. The two agencies hereby agree to cooperatively work towards achieving environmental results and comply with the provisions set forth herein.

All program commitments, grants, and assistance are subject to actions of the State Legislature, Congress, and the Courts.

This agreement shall be subject to modification upon approval of both parties.

FOR THE STATE OF OREGON:

\_\_\_\_\_  
Frederic J. Hansen, Director  
Department of Environmental Quality

\_\_\_\_\_  
Date

FOR THE U.S. ENVIRONMENTAL PROTECTION AGENCY:

\_\_\_\_\_  
Robie G. Russell, Regional Administrator  
Environmental Protection Agency, Region 10

\_\_\_\_\_  
Date

## INTRODUCTION

# DRAFT

The Oregon State/EPA Agreement (SEA) describes environmental program commitments, priority problems, and solutions which the State of Oregon, represented by the Department of Environmental Quality (DEQ)<sup>(1)</sup>, and the U.S. Environmental Protection Agency (EPA), Region 10, have agreed on for fiscal year 1990 (July 1, 1989, to June 30, 1990). The programs include:

Air Quality  
Water Quality

Hazardous Waste  
Underground Storage Tank  
Environmental Cleanup

This agreement for mutual federal and state problem-solving and assistance is the primary mechanism to coordinate federal and state programs to achieve a comprehensive approach to managing Oregon's environment. The SEA has been written to accomplish two purposes:

1. Effective and efficient allocation of limited federal and state resources.
2. Achievement and maintenance of established environmental standards.

The SEA consists of two documents, which are incorporated as part of this agreement. They are:

- Executive Document including this agreement -- to provide the public and agency program managers with the formal agreement, a clear overview of environmental issues, program priorities, and major tasks for the fiscal year.
- Program Work Plans -- to provide detailed workplans to be carried out by each program during the fiscal year. This document also contains the FY 90 grant applications.

(1) Agreements by the Oregon Division of Health for drinking water commitments and the Oregon Department of Agriculture for pesticide commitments are not included in this SEA.

## SUMMARY OF PUBLIC PARTICIPATION

### 1990 State/EPA Agreement

The public participation process initiated for the 1990 State/EPA Agreement includes: (1) a plan prepared by the Management Services Division of the Department of Environmental Quality and approved by the EPA's Oregon Operations Office; (2) a Notice of Intent to Apply for Federal Aid for the consolidated air, water, and hazardous waste program grant funds distributed through the State Clearinghouse (A-95) process; (3) a public notice of the chance to comment on the Agreement sent directly to the 14 regional councils of government in the state, to Department mailing lists, and published in The Oregonian; (4) a public hearing; (5) a responsiveness summary to comments received during public hearing; and (6) an information report to the EQC on the SEA, including a summary of public comments. The above elements of this process are discussed on the following pages. Specific mailing lists are available from DEQ's Management Services Division.

## PUBLIC PARTICIPATION PLAN

For the State/EPA Agreement  
Fiscal Year 1990

As outlined in applicable Federal Regulation (46 FR 12: 5737), a detailed public participation plan must be included in the negotiations of the State/EPA agreement for each year. The elements of a successful public participation plan include: IDENTIFICATION of affected and interested parties and groups, OUTREACH to those individuals and groups through a variety of techniques and methods, DIALOGUE between the interested parties, the Department and EPA, ASSIMILATION of the ideas offered by the groups which are involved and offer comments, and FEEDBACK to the interested parties and groups or individuals which comment about the final agreement.

This plan, developed by the Management Services Division of the Oregon Department of Environmental Quality, addresses each of these broad areas with specific groups, listings, timetables, and techniques to accomplish each goal cumulating into the overall public participation plan for the SEA FY 90.

### IDENTIFICATION

All Oregonians, along with groups and individuals presently involved in environmental concerns in Oregon, are affected by and the SEA agreement. Many elements of the agreement directly affect the environmental program of Oregon.

DEQ presently uses an advisory committee for each major policy area. Each of these committees is composed of a variety of interest groups, including local governments, public interest groups, environmentalists, unaffiliated citizens, and industrial associations.

Also interested in the DEQ policy are those groups and individuals who comment regularly on proposed environmental rulemaking. As rules are proposed for water quality, air quality, solid waste, or hazardous waste, public comment on the conditions of the rules are solicited. A list of people who have indicated an interest in reviewing the Department's proposed rules is available at DEQ offices.

### OUTREACH

#### 1. Methods

Because most of the material is complex, much of the outreach for the SEA is written material distributed through the mail. A 2-page summary of the executive document is prepared. This summary is mailed to individuals who indicate they wish to receive it. The summary indicates that the full executive document is available free of charge from the DEQ Management Services Division. The statewide toll-free number is given, eliminating long distance charges for those who need

additional information. Also, a news release is made announcing the opportunity for public comment at a public hearing and the date of the Environmental Quality Commission (EQC) meeting to discuss the SEA.

2. Content

The outreach material includes background information on the SEA, a timetable of the proposed actions, a summary of the SEA listing the issues, and the name of a specific individual to contact for additional information.

3. Notification

The outreach materials are mailed to interested parties as soon as they are available.

4. Timing

Prior to the mailing, a paid advertisement is used in the Oregonian, the statewide paper of largest circulation, indicating the upcoming opportunity for public comment.

5. Depositories

Copies of the SEA along with the executive document are available at all DEQ offices. DEQ offices are located at:

Headquarters Office  
811 SW Sixth Avenue  
Portland, Oregon 97204  
229-5696 Toll Free 1-800-452-4011

Roseburg Branch Office  
1937 W. Harvard Blvd.  
Roseburg, Oregon 97470  
440-3338

Astoria Branch Office  
Clatsop County Courthouse  
749 Commercial  
P.O. Box 869  
Astoria, Oregon 97103  
325-8660

Southwest Region  
201 W. Main Street  
Suite 2-D  
Medford, Oregon 97501  
776-6010

Willamette Valley Region  
750 Front Street N.E. - Suite 120  
Salem, Oregon 97310  
378-8240

Central Region  
2146 NE 4th  
Bend, Oregon 97701  
388-6146

Coos Bay Branch Office  
490 N. 2nd  
Coos Bay, Oregon 97420  
269-2721

Eastern Region Office  
700 SE Emigrant  
Suite 330  
Pendleton, Oregon 97801  
276-4063

## DIALOGUE

Dialogue is preceded by the distribution of a summary of the issues and timetable for decision-making. A public hearing to accept testimony from the public is scheduled for April 14, 1989. Written testimony is accepted through June 2, 1989, on which date the Commission receives a summary staff report on the SEA which includes comments from the public hearing, together with agency response.

## PUBLIC HEARING REQUIREMENTS

1. Timing: The notice of public hearing is distributed to the interested parties at least 30 days prior to the public hearing. The public hearing notice is distributed to the news media.
2. Content of Notice: The content of the notice clearly identifies the issues to be discussed along with alternatives.
3. Provision of Information: All pertinent information is available to the public.
4. Conduct of the Hearing: The public hearing is conducted by the Management Services Division. The hearings officer provides a report of hearing testimony to the Environmental Quality Commission. The report includes a responsiveness summary.
5. Record of Hearing: The public record remains open until the hearings officer reports to the Environmental Quality Commission. The Commission may request additional testimony or clarification at the time the report is submitted.

## RESPONSIVENESS SUMMARIES

The DEQ staff prepares a responsiveness summary for the public participation process used in the SEA. This commentary briefly and clearly documents the agency's consideration of the public's input into the SEA.

The responsiveness summary includes: the type of participation that was carried out, identification of those who participated and their affiliation (if applicable); issues, the public's views, including criticism; and logic of the agency in making its decision and the agency's specific responses to each comment.

Availability of the responsiveness summary is advertised in a paid advertisement in the Oregonian, the statewide paper that has the largest circulation to the affected population.

Program Goals

- Attain and maintain air quality standards statewide.
- Prevent significant deterioration of air quality where the air is now clean.
- Prevent significant air quality impacts from toxic chemicals.

Background

Oregon's air quality is generally very good. Certain areas of the state, however, have pollution levels that exceed the concentrations allowed by the standards. The air quality program has successfully reduced overall pollution levels in most historic problem areas and most of these areas are meeting the standards or coming very close. The new federal PM-10 standards coupled with increased monitoring for PM-10 have identified several new and some severe problem areas. The areas officially considered out of attainment are:

Portland: carbon monoxide, ozone  
Salem: carbon monoxide  
Eugene/Springfield: carbon monoxide, PM-10  
Grants Pass: carbon monoxide, PM-10  
Klamath Falls: PM-10  
Medford/White City: carbon monoxide, PM-10

Additionally, four other areas have levels of PM-10 (particulate matter ten microns in diameter or smaller) that may exceed allowable levels and additional monitoring is needed for confirmation. They are:

Portland  
Oakridge (near Springfield)  
LaGrande  
Bend

Priorities

Air program priorities that guide development of the work program are listed below and briefly explained.

**PM-10 Standards**

EPA promulgated PM-10 standards in July 1987. Five areas of the state are known to exceed the standards and three others are suspect. DEQ is implementing a monitoring plan in the suspect areas and is developing plans to bring the known violation areas into compliance. The plans involve ambient air monitoring at sites where PM-10 standards are highest, enforcement of tighter new industrial rules, and evaluation of woodstove curtailment programs in the problem areas. DEQ will continue to monitor other areas of the state where exceedances of standards are confirmed, and DEQ will develop and implement implementation plans for any such new areas.



## Woodstove Program

The 1989 legislature is expected to pass laws regulating woodstoves. DEQ will implement the laws as the laws require. DEQ will continue work to identify stoves with the Best Existing Stove Technology. These are the stoves that will become eligible for financial assistance. Proposed changes to federal or state certification programs, as may be needed to ensure a high level of in-home emission control performance, will be considered.

## Resolve Portland Ozone Situation

Portland is on the fine edge of compliance with the ambient air standards for ozone. Monitoring results from the summer of 1989 will be important in deciding what additional ozone reduction strategies may be required, or whether redesignation of Portland to attainment for ozone standards should proceed. The Department also plans to update its inventory of ozone precursors, including volatile organic compounds and carbon monoxide.

## Indoor Air

The 1989 legislature may adopt laws expanding the State program for indoor air. DEQ will implement the laws as the laws direct. If the Department feels that additional legislation is needed, DEQ will begin preparing a modified legislative package for 1991.

## Toxics Program

The Department's toxics program will concentrate on reducing emissions from sources. State rules for new sources will be proposed. Development of rules for existing sources will be initiated.

## Field and Slash Burning

The 1989 legislature may adopt laws related to the control of field burning. The Department will implement the laws as the laws direct. The State Smoke-Management Plan will be reviewed and updated as needed.

## Strategic Plan for DEQ

DEQ has a Department-wide plan to achieve long-term Department goals. The Air Quality Division will implement plan elements relating to air quality.

## WATER QUALITY PROGRAM

### Program Goals:

- Protect recognized beneficial uses of water through attainment and maintenance of Water Quality Standards.
- Develop programs to protect groundwater.
- Improve knowledge and control of toxics.
- Work with other state agencies to develop process for balancing the state's water resources, considering quantity and quality.

### Background:

Although Oregon ranks tenth among states in total area, its population is less than that of many U.S. cities. Oregon's current population is 2,659,500. Even though Oregon experienced rapid population growth in the early 1960's, future growth is expected to continue, but at a lower rate than that experienced previously. This still means more wastes will be generated, which will require adequate treatment and disposal in order to maintain and protect surface and groundwater quality.

DEQ will continue to operate its program of preventing the creation of new water quality problems. Effort will also continue to be directed to correction of localized water pollution problems and nuisance conditions, replacement, and rehabilitation of aging pollution control facilities, and proper operation and maintenance of facilities to assure that effluent limits are met on a continuing basis.

### Profile:

Surface Water Quality - Of 90,000 stream miles, nearly 27,738 miles have been assessed. Based on a 1988 305(b) report and the streams assessed, designated uses are supported in 45 percent, partially supported in 31 percent, and not supported in 24 percent. Of nearly 200,000 acres of lakes assessed, designated uses are supported in 76 percent, partially supported in 11 percent, and not supported in 13 percent. Oregon has 21 major estuaries, with a total of 131,844 acres of intertidal and subtidal habitats. Only 7 of the 21 estuaries are classified as being economically feasible for commercial growth and harvest of shellfish. The primary pollutant preventing full support of uses in surface waters is fecal coliform bacteria. Water quality is also significantly affected in many basins by low flows. In Oregon, bacterial contamination results from different source types including: 1) nonpoint sources -- land runoff from failing on-site septic tanks and drainfield systems, inadequately managed animal waste disposal operations, and cattle grazing areas; 2) point sources -- bypasses and discharges of inadequately treated sewage from municipal sewerage systems; and 3) natural sources.

Groundwater Quality - Shallow, unconfined aquifers supply the bulk of groundwater to about 1,600,000 Oregonians who rely on groundwater for all or part of their daily water needs. Many existing urban centers and new developments are located above these aquifers. The number of known groundwater contamination areas in the state has increased over the last few years. Groundwater contamination from industrial and agricultural activities, landfills, and on-site sewage disposal are the major sources of contamination.

#### Enforcement Compliance Policy and Procedures

In FY 89 DEQ adopted new rules on enforcement procedures and civil penalties. The goals of the enforcement procedures are to obtain and maintain compliance with DEQ's statutes, rules, permits, and orders; protect the public health and environment; deter future violators and violations; and ensure appropriate and consistent statewide enforcement.

#### Priorities

State Revolving Fund Loan Program - Federal legislation for phasing out the construction grant program and replacing it with a revolving loan fund was enacted in February 1987. Based on state-enabling legislation which was passed by the Oregon State Legislature, the DEQ adopted rules for implementing the State Revolving Fund program (Division 54) in March 1989. Also adopted were rule modifications which will enable the DEQ to make a smooth transition from the grant program to the State Revolving Fund. The final statewide construction grants priority list will be issued in FY 90. In FY 90, initial loans from the State Revolving Fund program will be made.

NPDES Permits - DEQ will meet reissuance targets for major and minor municipal and industrial permits based on firm commitments negotiated with EPA.

Critical River Basins - State and EPA efforts will continue to focus in two areas: updating the Willamette Basin Water Quality Management Plan and implementing the terms of the legal settlement on total maximum daily loads. Work to identify and address toxic concerns will be one component of the Willamette Basin Plan update.

Total maximum daily load (TMDL) work will continue on the rivers identified in the legal settlement. Completion of TMDLs/waste load allocations/loading capacities will continue at a rate of 20% annually, but in no event less than two per year. TMDLs will be negotiated from a priority list each year.

The following summarizes progress to date on developing TMDLs:

	<u>Phase I (loading capacity)</u>	<u>TMDL</u>	<u>WLA/LA</u>
Tualatin River	5/87 Completed	9/88	12/88
Yamhill River	8/87 Completed	6/89	8/89
Bear Creek	11/87 Completed	6/89	8/89
Garrison Lake	2/88 Completed	9/88	
S. Umpqua River	11/87 Completed	To be negotiated annually on a priority basis - at a rate of 20% annually, but not less than 2 per year	
Pudding River	2/88 Completed	"	"
Coquille River	2/88 Completed	"	"
Klamath River	4/88 Completed	"	"
Umatilla River	4/88 Completed	"	"
Grand Ronde River	6/88 Completed	"	"
Calapooia River	6/88 Completed	Determined not to be water quality limited - TMDL/WLA/LA not required	

(Total: 11)

To date, DEQ has completed all Phase I work on schedule with technical assistance from EPA. TMDL/wasteload allocation/load allocation for the Tualatin River and Garrison Lake have been completed.

Nonpoint Source - The DEQ used the specific requirements of the Water Quality Act to develop a report of nonpoint sources of pollution. Oregon's NPS Assessment Report of 1978, 305b report of 1988, and 1985 ASWIPCA NPS Report formed the basis for NPS problem identification. The reports will be updated locally by various land management agencies, industries, and the public to provide a broad statewide nonpoint source assessment. The assessment examined the nonpoint source problems, sedimentation, debris, toxics, etc., affecting the state's lakes, rivers, streams, estuaries, and aquifers.

The DEQ will implement a comprehensive program to cover major components of nonpoint activities and controls (contingent on federal funding).

Toxics Control - The final (304)1 list of discharges needing individual control strategies was submitted in April 1989.

An assessment of toxic substances of concern from both point and nonpoint sources will be initiated and priority waterbodies potentially affected by toxic substances will be identified.

The DEQ will implement individual control strategies in FY 90 to resolve high priority water quality problems.

Groundwater - Assuming the Oregon Legislature passes the state-wide groundwater protection program and groundwater protection fund in FY 89, the DEQ groundwater quality protection policy will be implemented in FY 90. This legislative action will establish a state-wide groundwater protection program. In coordination with the Oregon Water Resources Department, EPA and other federal, state, and local agencies, the DEQ will conduct an ongoing state-wide monitoring and assessment program on the quality of the groundwater resource in the state. The program will identify (1) areas of the state that are especially vulnerable to groundwater contamination; (2) long-term trends in groundwater quality; (3) ambient quality of the groundwater resources of Oregon; and (4) any emerging groundwater quality problems. If DEQ declares an area of groundwater concern, a groundwater management plan which addresses the concern will be developed. These plans including wellhead protection plans will be developed in cooperation with local committees for designated groundwater management areas and areas of concern.

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Program Goals

The goal of the Hazardous Waste Program is to ensure that human health and the environment are protected from the risks of hazardous waste through development, implementation, and enforcement of sound waste management practice.

Background

The Oregon Department of Environmental Quality (DEQ) began the Hazardous Waste Program in 1971. The DEQ received interim authorization from the EPA in June 1981 to manage the federal program. Over the years, the Oregon Legislature improved and expanded the Department's authority and regulatory tools for hazardous waste management.

On January 31, 1986, the DEQ received final authorization for management of the Hazardous Waste Program in lieu of the federal base program. Today, a comprehensive regulatory framework exists and provides not only "cradle-to-grave" control over the generation, transport, and disposal of hazardous waste, but includes authority to address problems associated with past waste handling practices. With new authorization given by the State Legislature, the DEQ is continuing to work toward authorization of the federal regulations promulgated November 19, 1984.

With the increase of regulatory authority, the DEQ is also faced with a growing regulated community. Results of the DEQ's effort during FY 89 with the generator survey: approximately 3,200 new entities are anticipated to be added to the already heavy workload of some 580-plus known handles.

Priorities

The Department of Environmental Quality, through the issuance of permits and conducting an extensive compliance inspection, monitoring and a new enforcement program, will continue to implement the State program in FY 90. Under final authorization, the State program operates in lieu of the base federal program for those requirements promulgated prior to the Hazardous and Solid Waste Act (HSWA) Amendments of 1984. DEQ will continue to develop program capabilities and to seek authorization for HSWA Amendments.

EPA and DEQ will continue to focus on hazardous waste management system alternatives to land disposal during FY 90. The HSWA Amendments included a schedule for phasing out the land disposal of untreated hazardous waste. Currently, there are few options available for hazardous waste handlers, because suitable alternative capacity is very limited. Emphasis in FY 90 will need to focus on waste reduction and alternatives to land disposal of hazardous waste. The development of policy and regulatory options will be a high priority for EPA and all the states in Region 10 in FY 90.

DEQ priorities for FY 90 include several activities related to operation of the base program and working towards HSWA authorization:

- Aggressively pursue the implementation of a hazardous waste reduction program.
- Conduct a compliance program targeted at generators of hazardous waste and pursue enforcement against significant violators.
- Develop an educational/technical assistance program targeted at high priority generators.
- Participate in state/regional siting and permitting of new and expanded facilities that provide additional waste management capacities and environmentally sound alternatives to waste management.
- Environmental clean-up, focusing on closure, corrective action and post-closure permits at environmentally significant unauthorized land disposal facilities.

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## UNDERGROUND STORAGE TANK PROGRAMS

### Program Goals

The goals of DEQ's Underground Storage Tank (UST) and Leaking UST (LUST) programs, respectively, are to prevent future UST releases into the environment and to identify and clean up those LUST sites that already have contamination.

### Background

DEQ's UST program staff focus on compliance/prevention activities. About one-quarter of the program's overall resources are provided by EPA grant funds -- the remaining three-quarters are provided by the state's \$25 per tank permit fee.

The UST program is fully staffed in the five Regional Offices (RO). RO UST staff responsibilities have concentrated on identification of non-permitted USTs, installation/closure tracking, and assistance with RO response to LUST site contamination. Headquarters UST staff have concentrated their efforts on outreach (presentations, technical assistance, informational materials), permitting, development of technical and financial responsibility regulations, development of a contractor licensing program (with regulations) and tank decommissioning requirements, and database development/implementation.

DEQ's LUST program staff are responsible for responding to contaminated sites. In FY 1990, a 10% state match to federal support will be required: during FY 1987 and 1988, DEQ's LUST program was 100% funded by EPA's LUST Trust Fund. RO LUST staff respond to reports of tank/line contamination, visit sites when required, advise owners/operators of the required regulatory responses to contamination, and track cleanup efforts. Headquarters LUST staff have focused on preparation of LUST procedures and protocols guidance, management of the LUST Trust Fund and EPA/DEQ Cooperative Agreement, resolution of responsible party issues, and cleanup at complex LUST sites.

### Priorities

#### UST Program

##### Adopt Technical Standards and Financial Responsibility Rules

- UST staff expect that UST rules, equivalent in scope to EPA's new UST rules, will be adopted by late Fall, 1989.

##### Training

- The UST program requires training in several critical areas, including classroom/hands-on tank installation and decommissioning, site assessment, leak detection and corrosion protection technology, and compliance/enforcement protocols.



#### Program Approval Application

- Following adoption of state UST rules, staff expect to have an UST/LUST program approval package ready for EPA consideration by March, 1990 (UST cleanup rules have already been adopted by DEQ).

#### Implementation of Certification Rules

- Licensing and certification rules for contractors were adopted by the EQC in March, 1989. Other than owner/operators working on their own facilities, only licensed contractors will be allowed to work on UST systems.

#### Issue Final UST Permits

- All eligible UST owners/operators must have state operating permits. Following final adoption of UST rules, all existing temporary permits will be replaced with final permits.

### LUST Program

#### EPA/DEQ Cooperative Agreement

- DEQ LUST staff will continue to develop and maintain the EPA/DEQ Cooperative Agreement (CA). The CA provides Trust Fund support for DEQ LUST staff and corrective actions undertaken without responsible parties.

#### Adoption and Implementation of Oregon's Soil Cleanup Matrix

- DEQ is developing a soil cleanup matrix for LUST site contamination that will provide a site-specific 'fast-track' cleanup option. DEQ expects adoption of the matrix in late 1989.

#### Training

- The LUST program requires training in several critical areas, including cleanup technologies, investigation, enforcement, cost recovery, and cleanup level determinations. These training areas are not currently well-covered by governmental training programs and a DEQ priority will be to identify and participate in such training events.

#### Program Approval Application

- The LUST program priority is similar to the above-noted UST priority.

#### Site Cleanup Oversight/Management

- Major DEQ resources will be expended in 1990 on site oversight and management. Staff are placing a high priority on obtaining productive guidance on soil/GW cleanup levels, risk assessment technologies, and other cleanup-related guidance.

Program Goal

To investigate sites where hazardous substances may have been released and provide the appropriate response to clean up contaminated sites.

Background

The 1987 Oregon Legislature passed the Environmental Cleanup Law (Senate Bill 122) to address the problem of hazardous substances that have been improperly disposed in Oregon. This law established a comprehensive framework for the DEQ to develop an Environmental Cleanup Program to investigate and clean up contamination from releases of hazardous substances, including petroleum products, throughout the state. The bill also established the Hazardous Substances Remedial Action Fund to cover the state's cleanup cost. This provides the state with authority and funding to address the need for clean-up at non-NPL sites and fully participate in the federal Superfund program. The state has entered into cooperative agreements for core program development, management assistance at NPL sites, to carry out preliminary assessments, and, eventually site investigations for sites listed on the CERCLA Inventory.

Priorities

The state of Oregon will continue to participate in the federal Superfund program while addressing non-NPL sites under the state's environmental cleanup program. This will include new rulemaking, continued staff recruitment and training, lab support, and contract capability. Participation in the federal Superfund program will continue through cooperative agreements for management assistance on NPL sites and conducting preliminary assessments for sites listed on the CERCLA Inventory. The state will continue to develop a program to conduct investigations, require clean-up by responsible parties, and take remedial action at uncontrolled hazardous waste sites.

DEQ has identified several priorities for the environmental cleanup program in FY 90 related to National Priority List site cleanup, increased participation in the federal Superfund program, and building state program capability.

Program Management and Administration

- Develop and enter into a Superfund Memorandum of Agreement (SMOA) between EPA and DEQ to facilitate communication and provide for mutual agreement on each agency's roles and responsibilities during CERCLA response activities.
- Renew and maintain the Core Program Cooperative Agreement to provide funds for CERCLA activities that are not assignable to specific sites, but support the state's site-specific response program, including training, contracts, planning, rules, policies and procedures advisory committees, systems development and other support functions.

- Continue to develop staff capability, management and administrative procedures, and funding sources.
- Implement cleanup rules and establish procedures between DEQ and EPA to consult on the determination of state cleanup levels for NPL sites.

Develop and implement the procedures for use of contractors and contract laboratory support, public participation, health and safety, and QA/QC.

- Participate with EPA in the SCAP and other planning processes to promote recognition and inclusion of Oregon sites in the federal cleanup program.

#### Pre-remedial

- Continue to participate in the CERCLA pre-remedial program by conducting preliminary assessments and site investigations of Oregon CERCLIS sites through multi-site/multi-activity cooperative agreements.

#### Cleanup of National Priority List Sites

- Participate in remedial investigation/feasibility studies at Allied Plating, Teledyne Wah Chang and Umatilla Army Depot, and design and construction activities at NL/Gould and Martin Marietta through management assistance. Pursue state lead to conduct RI/FS activities at Joseph Forest Products site (EPA will consider state requests for lead agency responsibility at NPL sites based on appropriate guidance, availability of funding, the level of state program development, and project status).
- Assist EPA in resolution of operation and maintenance and cost recovery issues at United Chrome Products site and participate in Phase II groundwater investigation.
- Participate at appropriate stage of investigation or cleanup at any new sites that are proposed or placed on the NPL. Pursue funds from EPA for new site activities.
- Receive training from EPA and other sources for cleanup-related activities including enforcement, administration, cost recovery, investigations, pre-remedial work and safety.



## Garbled talk just clouds river issues

Come clean, USA. That's a fitting comment in more than one way to depict the Unified Sewerage Agency's role in the Tualatin River cleanup effort.

The Washington County sewer authority often has been accused of dodging its responsibilities or foot-dragging in the fight against river pollution. The charges have merit.

But agency leaders have vowed to cooperate fully with the state-mandated cleanup campaign. USA even hired a state Department of Environmental Quality staffer with expertise in pollution-control.

Unfortunately, agency leaders still are speaking out of both ends of their sewer pipes.

At a recent student-organized forum at Lakeridge High School, USA's John Jackson said the agency still is seeking a "second opinion" on the causes of pollution of the river. Coming after two years of conclusive studies of the river's problems, Jackson's comments sounded like the agency was waffling instead of moving swiftly to curb pollution.

Last month, USA manager Gary Kraemer touted the agency's new publication, Tualatin River Watch, while presenting a cleanup plan to the state Environmental Quality Commission. The publication says USA's preferred cleanup methods involve "recycling" treated sewage. That means applying sewage on fields, farm land or wetlands so the water eventually winds up back in the river — the favored approach of environmentalists. But Kraemer had just finished telling the Environmental Quality Commission USA preferred piping treated sewage to the Willamette or Columbia rivers. That's the opposite of keeping the water within the already-parched river basin.

USA may view the contradictions as just another part of the continuing process in determining the best solution to pollution in the river. But the public deserves straight talk about what's going on, and it isn't always getting it.

Many important decisions involving millions of dollars of river cleanup costs remain. USA needs to establish better credibility to gain more public confidence.

811 S.W. 6th ave  
Portland, Ore 97204

Dear John Charles,

5-25-89

I am writing in concern on the issue of field burning. Eastern Ore must be included in the House Bill 425 or 2526. If the ammendment excludes Eastern Oregon we will be smothered by smoke for months every summer. The health of our children + adults is at stake. Tourist industry and hiway safety and the quality of air of half the state is being ignored and polluted. There are other alternatives to field burning, utilizing the straw for paper, compose boards, etc., or burning once every few years. The farmers are ignoring the issue and taking the easy way out. They are dumping garbage and pesticides in the air we breathe.

The Grande Ronde Valley is only 14 miles across and 20 miles long. The valley is small and completely surrounded by mountains. Air inversions are not uncommon. The ammendment that excludes Eastern Oregon will double our smoke problem in the area, making the valley unlivable. Between the wood smoke in the winter, field burning in the summer,

slash burnings in the forest, the  
air in Eastern Oregon will  
not be fit to breathe.

Please stop the ammendment,  
and include Eastern Oregon in  
the house bill 425 to ban  
field burning.

Gary L. Ainsworth  
La Grande, Oregon

Thankyou, sincerely,  
Gail Pennell  
1506 7<sup>th</sup> Street.  
La Grande, Ore  
97850

C.C. Senator Mike Thron  
John Charles  
E.N.U.F. group  
Ray Baum

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

MAY 30 1989

OFFICE OF THE DIRECTOR

Environmental Quality Commission  
811 SW 6th Avenue  
Portland, OR 97204

Mary Macke  
Rt 1 Box 77C  
Cove, OR 97824

May 24, 1989

House Environment and  
Energy Committee  
State Capitol H 197 E  
Salem, OR 97310

Attention! We live in the Grand Ronde Valley,  
raise children and vegetables and fruit. We  
are outdoors most of the summer. We require  
clean air and are not fooled by the "econ-  
omic benefits" brought into our community  
by grass seed farmers.

Please include Eastern Oregon in Senate  
Bill 425 or kill the bill.

Mary Macke

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED

MAY 30 1989

OFFICE OF THE DIRECTOR

May 26, 1989

From: Helen & Ted Tuddenham  
1202 Penn Ave.  
LaGrande, Oregon 97850

TO: House Environment Committee  
State Capitol  
Salem, Oregon 97310

RE: SB 425

Dear Sirs:

I am writing to express my great displeasure and anger over Eastern Oregon being deleted from the Bill # 425 which will be phasing out and banning field burning, now only in the western part of the state.

We are both retirees from Long Island, New York that have recently settled in LaGrande as of last Fall. We bring with us New York State pensions and social security dollars and we do not require a job, but we do require clean air to breathe. While we are both fortunate enough to be in very good health, we do occasionally have sinus troubles and know that the field burning will aggravate our condition. We were in hopes that this unhealthy practice would soon be on its way out and now we feel (if this bill passes) that it will get worse than ever. We are feeling that perhaps we came to the wrong place and should move elsewhere. We are feeling that our representatives, Thorne and Baum, let us down in supporting this amendment to delete Eastern Oregon from this bill.

We have studied this area and can readily see that it is extremely smoke sensitive with the surrounding mountains. We were concerned about the smoke problem during the winter from the wood stoves and are encouraged to find that a city committee and the DEQ is watching this condition and working to solve this problem.

Again, we are asking that all of Oregon be included in SB 425 or kill that bill. It started out to be a good bill and should have been left that way. We feel other viable options will be found for the farmer to take care of their grass fields rather than putting their garbage into our air---we came to Oregon because it is supposed to be "The Lungs of the Nation." Please don't disappoint us. Thank you.

*Helen Tuddenham*

Helen Tuddenham

*Ted Tuddenham*

Ted Tuddenham

CC Senator Kerans  
Senator Thorne  
Representative Baum  
ENUF  
Environmental Quality Commission

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY

RECEIVED  
MAY 30 1989

OFFICE OF THE DIRECTOR



May 25, 1989

TO: House Environment Committee  
Sstate Capitol  
Salem, Oregon 97310

Dear Sirs:

If Senate Bill 425 gets passed as is with Eastern Oregon delated from the Field Burning Ban, all of us over here are in deep trouble, or I should say deep smoke. It is an outrage that Eastern Oregon is excluded and we are very unhappy with Baum, Faubash and Thorne for supporting this.

It means we will have more burning than ever as we'll be a magnet for increased acreage to be leased from farmers in the Willamette Valley. With burning restricted and phased out in that area, the smoke opponents will be pacified and we'll lose the political clout or "Willamette Muscle". Alone we can not fight in the political arena; we do not have the population.

We will be stuck with greatly increased field burning for years--we already have way too much. The Grand Ronde Valley is a smoke sensitive area to begin with. Hard to imagine it getting worse than the last couple of years, but it will and it was intolerable to begin with!

We might as well all pack up and leave. Forget about attracting tourists, new business, retirees and good athletes for our college. Who'd want to come to this once beautiful valley obscured with unsightly, unsafe smoke!

Many people already have medical bills that are outrageous and there is just untold suffering by the smoke already in the air. Our summers are already ruined from about mid July on. Many people are imprisoned in their homes, and those that can't be inside are getting damage to their lungs by simply bweathing. That smoke is filled with dirt and chemicals.

This bill is making us citizens feel like second class citizens and when election time comes around we will remember those that put profit for some above the protection of the good health of all. It is only by banning field burning that a viable solution will be found--necessity being the mother of invention. Many people feel we are burning a valuable resource that could be used to create a whole new industry.

Please, Please reconsider and include Eastern Oregon back into the bill, or kill that bill before it kills us. Thank You.

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAY 30 1989  
OFFICE OF THE DIRECTOR

*Marge Woodford*

Marge Woodford

*Henry Woodford*

Henry Woodford

CC Senator Kerans  
Senator Thorne  
Representative Baum  
ENUF Group  
Environmental Quality Commission

H Woodford  
1202 Penn Ave  
Lagrande OR 97850



LIZ VanLEEUWEN  
LINN COUNTY  
DISTRICT 37

REPLY TO ADDRESS INDICATED:

- House of Representatives  
Salem, Oregon 97310-1347  
 27070 Irish Bend Loop  
Malvey, Oregon 97342



Home Phone  
369-2544  
Capitol Message  
376-8772

HOUSE OF REPRESENTATIVES  
SALEM, OREGON  
97310-1347

5/23/89

To: D.E.Q.

From: Rep. Liz VanLeeuwen

Re: Proposed Rule Revisions on Field Burning, Propaning & Stack Burning

As you probably know, I represent the largest area of grass seed growing in the state. I'm also in the unique position of being a grower, and one who has been involved from the beginning of the controversy in trying to find alternatives and solve the problems. I know first hand what it takes in time and in money to rake, bale and remove the straw and try to sell it, then to try and have the right equipment and the allowable conditions to propane flame. It takes many hours---at least 20 times as long to do the actual flaming as it does to open burn the same field.

With the limitations imposed by the DEQ on speed, start and stop times, at best, you can probably only propane 80 acres a day. That 80 acres could be open burned in 20 minutes.

With the pressure on against open burning, and with the growers trying to shift to alternatives, we need to leave flexibility to accomplish as much propaning as possible.

If we limit both open burning and propaning, particularly on the perennial seed fields, there will be a drastic reduction in quantity and quality. A real adverse effect on Oregon's economy.

I hope you are aware of the tremendous effort made by the seed growers this past summer in straw removal and the building of a number of storage sheds. This spring huge straw storage sheds are cropping up like mushrooms. Even with the hoped for tax-credits, and the hoped for sales of straw, these are a real added expense, as is all the other straw handling equipment and labor required.

Probably the biggest item in smoke management from open burning is to handle it systematically and to do larger areas at one time.

I see you proposing to have DEQ do a field by field release. In my opinion, that is not practical, both from a staffing and a timing standpoint.

From personal experience, I know that the Orchard Grass seed fields we were not permitted to open burn or propane, have had a dramatically reduced yield. By honoring the DEQ requests in 1987, and by being shut off by regulation in 1988, we were not able to complete propaning. Remember, once we've removed the straw in preparation for propaning, it is no longer possible to open burn. The other choice to it burn it with chemicals.

The photos below show the difference when a perennial grass has to be reseeded and what the new stand looks like after open burning as compared to removing the straw and propaning.

Photo #1: In open burning with charcoal seeding you can get nice, clean fields like this:

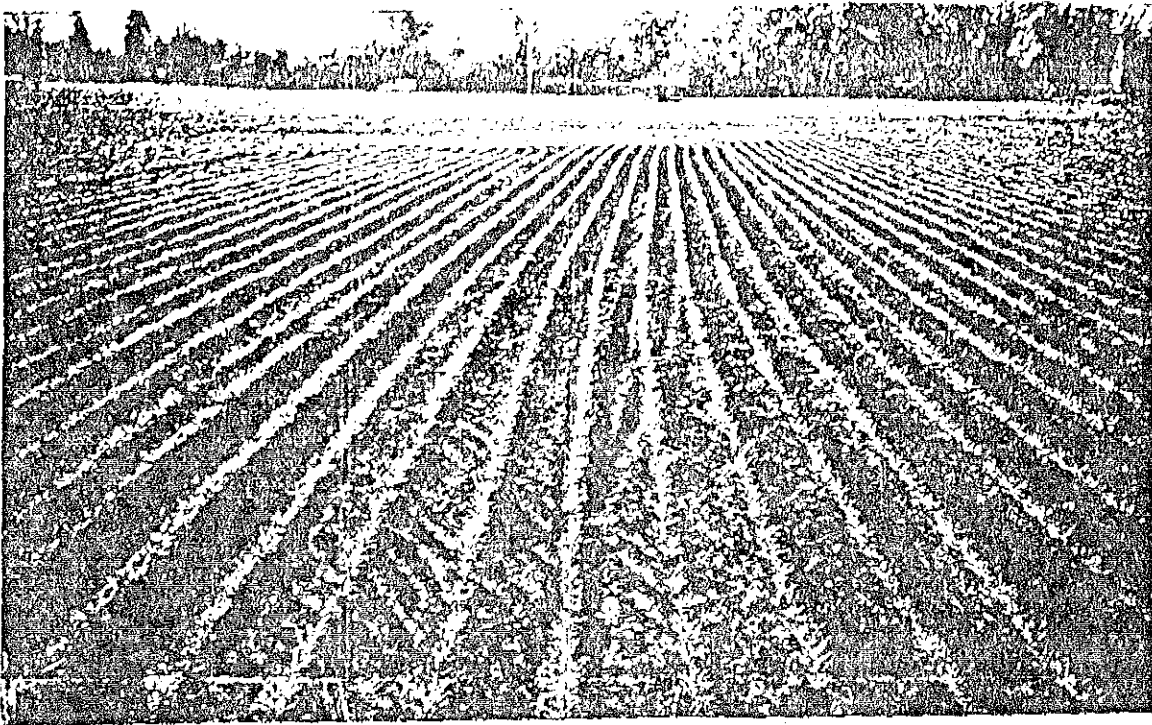
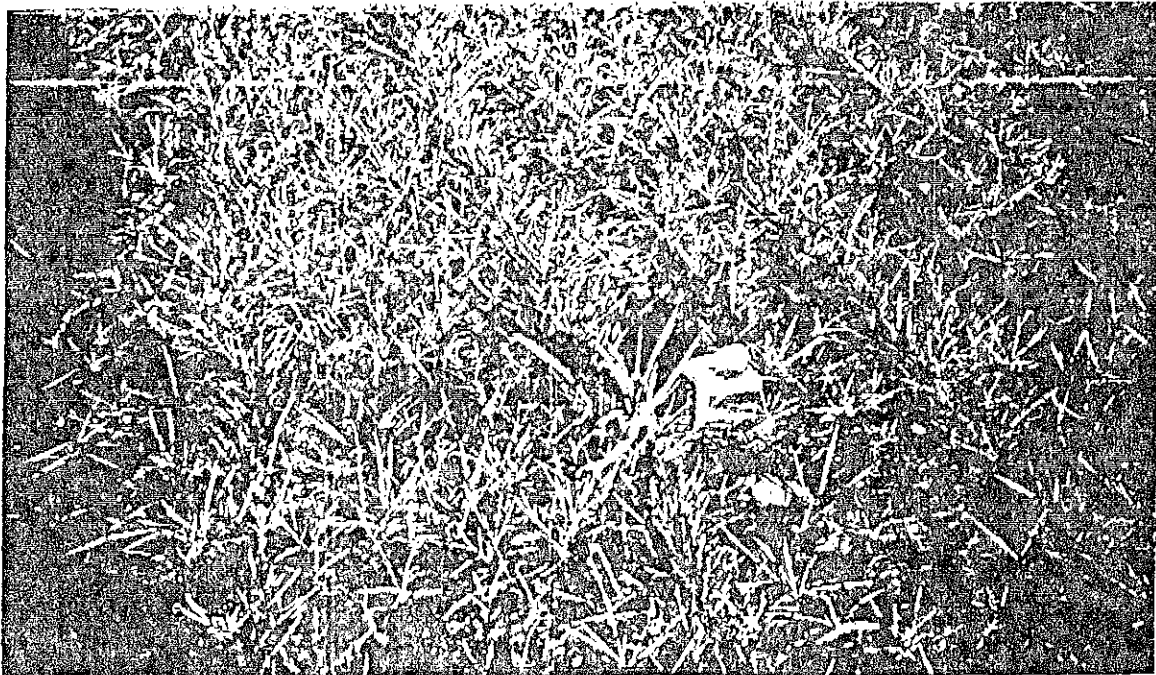


Photo #2: With propaning and charcoal seeding, you may get a new stand that is not nearly so clean. In fact, we will probably not be able to meet the seed certification standards on this one below. It was so weedy, the hand weeding crew finally gave it up as hopeless. Again a very expensive process.



Please give as much leeway as possible for propaning after straw removal. Remember, the farmers have the varying weather conditions to deal with, too.

Sincerely,

*Liz VanLeeuwen*

Liz VanLeeuwen, State Representative, District 37

State of Oregon  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
**RECEIVED**  
MAY 30 1989  
OFFICE OF THE DIRECTOR

EQC

Fred + Nick -  
Draft for your  
consideration +  
feedback  
THX  
WRA

May 26, 1989

Mr. Stanley K. Meyers, P. E.  
Vice President of Engineering  
BEN-FAB Division of JELD-WEN  
P.O. Box 1540  
Klamath Falls, Oregon 97601

Dear Stan:

Thank you for your May 22nd letter. As you could tell from our response at the last EQC meeting, the commission takes seriously the concerns you reiterate in your letter. The overriding concern articulated by staff and one as to which the commission shares sensitivity is the magnitude of the task we all face in bringing Klamath Falls into attainment.

I'm pleased to learn of your support for the offset program and I hope you will agree that the guidance proposal from staff will meet the concerns you express. The staff is convinced, and I think reasonably, that there will be sufficient offsets available within the air shed to make the program viable.

EJC

TOOZE MARSHALL SHENKER HOLLOWAY & DUDEN

Mr. Stanley K. Meyers, P.E.  
Vice President of Engineering  
BEN-FAB Division of JELD-WEN  
May 26, 1989  
Page 2

I'm frankly reluctant to approve the rule on anything but a retroactive basis based in part on our experience in other non-attainment areas. The issue of equity seems so crucial and when the resource is already under such tremendous stress, I hate to exacerbate the problem when projections show industry's contribution to the problem increasing as a relative percentage of the total.

This is a tough issue to resolve on a win-win basis. While I hope for the passage of Senate Bill 422, I don't feel it is reasonable to put all of our eggs in that basket. Its clear in my mind that we'll need some contribution from industry and the rule ~~is~~ is aimed at achieving that now.

This is policy formulation in its toughest form. Be assured that we are quite sensitive to the <sup>con</sup>sequences of the decision and that we appreciate your constructive, intelligent and persuasive involvement in the process. I hope we will be able to achieve attainment and the good health benefits that will accompany it on a reasonable cost-benefit basis.

*ERC*  
TOOZE MARSHALL SHENKER HOLLOWAY & DUDEN

Mr. Stanley K. Meyers, P.E.  
Vice President of Engineering  
BEN-FAB Division of JELD-WEN  
May 26, 1989  
Page 3

*interesting*  
I enclose a copy of a recent New York Times article about  
forthcoming acid rain "offset" legislation.

Very truly yours,

William P. Hutchison, Jr.

WPH/kd

# Sale of Air Pollution Permits Is Part of Bush Acid Rain Plan

By PETER PASSELL

*Fred*

For two decades, economists have tried and failed to make their mark on America's effort to clean up the environment. Now, for the first time, their arguments are finding a receptive audience at the White House, where President Bush's aides are drafting legislation on acid rain.

The legislation would allow companies to buy and sell the right to pollute and thus let the market decide the cheapest way to contain smokestack emissions. It is rated by one White House official at having a "better than even money" chance of passing Congress. Such a victory for economists would change the thrust of anti-pollution efforts for decades to come.

To a generation of environmental advocates hardened by trench warfare with business, the only good polluter is a repentant polluter. But to economists, pollution is a necessary evil: the best way to cope with it is to figure out how much is too much and then let private markets decide who can clean it up most efficiently. This market-based approach has also gained powerful allies in Congress and even in environmental groups.

After a decade of investigation, there is no longer any serious dissent from the view that acid rain is largely caused by sulfur emissions from coal- and oil-burning electric power plants. Nor is there much doubt that acid rain

is damaging forests and lakes in the Northeast and Canada. President Bush, reversing the stance of the Reagan Administration, has pledged to support some sort of legislation to reduce those emissions.

The strategy long favored by most Congressional Democrats and environmental groups is to set a limit on the amount of sulfur that can be emitted by utility boilers.

Many utilities, it was assumed, would meet the standard by switching from high-sulfur coal extracted by members of the United Mine Workers in the East and Midwest to low-sulfur coal from the West, coal largely mined by non-union workers.

Thus, to win the support of the A.F.L.-

*Continued on Page A11, Column 2*

**National** A7

High Court Justice  
Blocks an Abortion

Planes Barely Miss  
Near Capital. Page A8

**The Living Arts** B1

Oyster-Slurping Tour  
Of Seattle Restaurants

WOODSTOCK VETS NEEDED FOR DOCUMENTARY. Call Kent St. John (629) 530-5101. —ADVT.

# Sale of Air Pollution Permits Is Part of Bush Acid Rain Plan

Continued From Page 1

C.I.O. and coal-state members of Congress, proponents of acid-rain legislation have generally agreed that some plants should be denied the option to use low-sulfur coal. These plants would be required to use "scrubbers," special equipment on smokestacks that removes sulfur by a chemical reaction.

One such proposal, the 1988 bill sponsored by Senator George J. Mitchell, a Maine Democrat who then headed a subcommittee on environmental protection, would have effectively required such scrubbers on about 55 older coal plants by 1995. The installation costs would have been subsidized with a tax on electricity produced in all high-sulfur plants.

## Regional Allowances

A cheaper, market-based alternative, argues Dan Dudek, an economist for the Environmental Defense Fund, would be to set the maximum tonnage of sulfur emissions permitted from an entire region — the 31 states east of the Great Plains, for example.

Utilities would then be issued permits to pollute, with emissions linked to past rates of discharge. A big utility in the Midwest with aging plants that

## A new political climate changes the thinking about pollution.

have always burned high-sulfur coal might end up with rights to dump a half-million tons of sulfur a year, while a small-town electricity co-op operating an emissions-free hydropower plant would receive none at all.

The limit in total emissions, and each utility's share of the tonnage, would be ratcheted down over time, with a goal of, say, cutting sulfur output in half within 15 years.

According to studies by ICF Inc., a respected environmental consultant in Virginia, scrubbers would remain the cheapest way for some utilities to stay within emissions limits; the tighter the constraint on total tonnage, the larger the number of plants likely to need scrubbers. But others, Mr. Dudek believes, would adopt alternative strategies.

They might switch to low-sulfur coal or try new technologies that remove sulfur without scrubbers. Or they might limit the use of their most polluting plants to periods of peak electricity demand. Yet another strategy would be to retire older plants, replacing them with natural-gas fired units or offering subsidies to customers to invest in high-efficiency appliances and lighting fixtures.

## Buying and Selling Permits

But some utilities, particularly those in areas of rapidly growing demand for electricity, would probably find it cheaper to buy pollution permits than reduce emissions. Indeed, some might use the market for permits the way

wheat dealers now use the grain markets in Chicago, buying and selling permits according to price and seasonal needs.

Such flexibility, Mr. Dudek says, would generate more anti-pollution bang for a buck. And a study by ICF that was just released by the Environmental Protection Agency comes to the same conclusion.

Cutting nine million tons of sulfur (roughly half the amount now emitted each year) by tightening controls on every smokestack would add \$2.3 billion annually to utility costs by the year 2000, the study says. Meeting the same goal by allowing unrestricted trading in pollution permits would cost just \$1.5 billion, the agency found.

These numbers may be new, but the basic ideas have been around for years. Since 1978, the E.P.A. has allowed cities that could not meet air quality standards to create emissions trading systems, in which new businesses buy pollution rights from existing ones. But the approach has been used very sparingly and has never caught on with local environmental administrators.

According to Paul Portney, a researcher at Resources for the Future in Washington, the idea of exchanging the right to pollute for money has never appealed to those in the vanguard of the environmental movement. "They viewed pollution as morally wrong," he says, something to be excised, not accommodated.

## Political Climate Changes

Why have the prospects for a market-based approach improved? One reason is a changing political climate. Ronald Reagan opposed any regulation of acid rain. President Bush says he is committed to such legislation, and as early as last December declared himself in favor of market-based solutions to environmental problems wherever they were practical.

Senator Robert C. Byrd, the former Majority Leader from West Virginia, a major coal-mining state, insisted that any legislation protect high-sulfur coal mines and miners. His successor, Senator Mitchell, is known as a friend of organized labor. But his past support for scrubbers was pragmatic, not ideological.

An equally important factor is the rise of a new generation of environmentalists who are more cost-conscious and less suspicious of business.

The free-market enthusiasts at the Environmental Defense Fund, based on the West Coast, may not dominate the Clean Air Coalition, the collective voice of environmental groups on air pollution matters. But they do serve as a counterweight to the Coalition's traditionalists at the Natural Resources Defense Fund.

David Hawkins, an E.P.A. official in the Carter Administration and the Defense Fund's spokesman on acid rain, will not commit himself to support legislation for a market-based system. However, if a bill were introduced by the Bush Administration that promised substantial reductions in sulfur emissions by any reliable means, the Defense Fund would not likely oppose it. To do so would risk a split in the coalition and dim the chances of any acid rain legislation this year.

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DESIGN AND SALES OF CUSTOM BUILT MACHINERY  
P.O. BOX 1540 — PHONE (503) 883-3373  
KLAMATH FALLS, OREGON 97601

May 22, 1989

Mr. William P. Hutchison, Chairman, EQC  
Tooze, Marshall, Shenker, Holloway & Duden  
333 S.W. Taylor St.  
Portland, OR 97204, 2496

Dear Mr. Hutchison:

I would like to thank you and the members of the Commission for the time and effort to examine the issues concerning the proposed emission limit change from 15 tons to 5 tons at the April 14th, EQC hearing. Two issues received considerable discussion at this hearing.

First is the issue of woodstove "buy-outs" as offsets. The Klamath Basin's industries support this idea as an approach that, in the right cases, will spend abatement dollars where it can make the greatest impact for the dollars spent. These offsets may be the only offsets available to new industries, or small industries with no potential on site offsets available. However, caution needs to be exercised. Until the amount of these offsets is inventoried, a determination of how many of the public will be willing to participate, the amount of reduction allowed for each type of appliance determined, a written program addressing the many other details is accepted by DEQ, EPA and our local jurisdictions, the feasibility of this proposed program will remain in question. Passing the proposed rule change assuming this offset program as a viable alternative is premature.

Secondly, there was considerable discussion concerning retroactivity and JELD-WEN's pending permit. I have included my January 16th letter to Ms. Gail Achterman which clearly outlines the steps, beginning 15 months ago, to obtain this permit. To impose yet another rule change to this permit after cooperating with the Department to comply with the 15 ton limit, will send a disturbing message to Oregon's present and potential new industries as to the ability to plan capital outlays with the assurance that the goal posts won't be moved. This, coupled with the comment by Mr. Hanson at the April 14th hearing; that making the rule retroactive would have "no practical effect", and later comments by others that rule changes; "normally apply to all new or permits which subsequently request modifications" argue strongly against making this rule retroactive.

The above items deal with the effects of the rule should it be adopted. However, we continue to believe that the need for this rule change has not been shown. The Department's staff report does not discuss the effects of the recent adoption of PM<sub>10</sub> rules which have already reduced the trigger point for new source review from 250 to 15 tons (a 17 times reduction). Additionally, no quantitative analysis demonstrating the need for this tonnage reduction and its contribution to solving the problem is presented. With a 4% worst day and 7% annual contribution (DEQ's figures from Agenda item H, Nov. 4, 1988, EQC meeting) a more clearly defined need has to be shown before adoption of this rule change should be considered.

May 22, 1989

Mr. William P. Hutchison, Chairman

Page #2

I also am concerned that the cost in capital equipment outlays has been underestimated and that the impact on economic development has not been addressed at all. This is of particular concern when viewed from the perspective of industry's minority contribution to the problem. A study of the impact on our area by the Departments of Energy and Economic Development should be requested and be a part of this decision.

I have discussed this proposed rule change with Representative Bernie Agrons. My understanding in those discussions is that Representative Agrons believes we should focus our attention on the real problem, particulate discharges from wood stoves, through enactment of SB422. It is my further understanding that he believes substantial progress needs to be made by SB422 before there is a need to address tonnages from industry in the Klamath Basin. Any other approach will divert attention from the real problem and provide little, if any, help towards its solution.

I hope that these comments and attachments will be helpful information. I would be happy to discuss any questions you may have. Thank you for your continuing consideration of this matter.

Sincerely,



Stanley K. Meyers, P.E.  
Vice President of Engineering  
BEN-FAB Division of JELD-WEN

cc: Mr. B. Agrons, State Representative  
Mr. P. Brockman, State Representative  
Mr. B. Pickard, State Representative  
Mr. D. Lohman, State Dept of Economic Development  
Mr. J. Keller, Klamath Falls City Manager  
Mr. T. Lindow, Klamath County Commissioner  
Mr. H. Fredricks, Klamath County Commissioner  
Mr. R. Hamilton, Klamath County Commissioner  
Mr. J. Gero, KCEDA  
Dr. E. Castle, EQC Vice Chairman  
Mr. W. Brill, EQC  
Mr. W. Wessinger, EQC  
Ms. G. Sage, EQC



DESIGN AND SALES OF CUSTOM BUILT MACHINERY  
P.O. BOX 1540 — PHONE (503) 883-3373  
KLAMATH FALLS, OREGON 97601

January 16, 1989

Ms. Gail L. Achterman  
Assistant to the Governor for Natural Resources  
Office of the Governor  
State Capitol  
Salem, OR 97310-0370

Dear Ms. Achterman:

I would like to thank you for your interest regarding the hearings on the 15 ton to 5 ton change proposed by DEQ for the Klamath Falls area. Your willingness to meet with our City, County and industrial representatives to discuss the problem, the timing of the hearings, and your letter of December 12th in response to my concerns is most appreciated. I understand that Dave Lohman sacrificed other things on his schedule and I also appreciated his participation.

During the conference call meeting, you asked about the withholding of approval for JELD-WEN's pending permit modification. Because the primary reason for the conference call was the timing of the hearings, and because of the limitations of the telephone format, this subject was not thoroughly discussed. Since we have found this permit to be extremely difficult, to have it currently on hold because of changing rules which are to be made retro-active, and to thoroughly answer the question you raised on the phone, I have outlined the history of this permit below.

1. The original permit modification request was made February 22, 1988, with assurances from the regional (Bend) office that the rules in effect at the time applied. These rules permitted an 0.1 grain per dry standard cubic foot, less than 20% opacity, and up to 250 tons per year total plant site emissions.
2. The DEQ requested further information for the permit review, by letter, on March 28, 1988. JELD-WEN responded by letter dated April 6, 1988.
3. JELD-WEN subsequently received a letter from DEQ, dated June 27, 1988, informing us of the adoption of PM10 standards for the State on April 29th. Since the adoption of the rules was made retro-active to comply with the Federal adoption date, of June, 1987, our application was required to comply with the new standards. It is important to note that this letter recommended revising the application to comply with new standards of 15 tons PM10 and 25 tons TSP.

4. A meeting was held with Tom Bispham, Lloyd Kostow, Don Neff and John Hector of DEQ to review the letter and determine the best course of action on July 7th. JELD-WEN questioned the "retro-activity" at this time but agreed to work with DEQ staff to modify the permit modification to comply with the 15 ton limit. After considerable work with Don Neff, this was accomplished and the permit resubmitted.
5. DEQ issued "a chance to comment on . . .", dated September 1st, indicating the permit would be issued "unless significant issues are raised during the comment period."
6. We were informed on October 14th, that a hearing had been requested by the County Health Services Administration and also that the Department was going to propose more stringent rules, requiring a 5 ton limit, for the Klamath Falls area. The hearing request has since been withdrawn. At this time, our permit is again on hold and DEQ has told us the new rules will be retro-active to include our permit.

A meeting was held with Fred Hansen, Nick Nikkila and others November 16th. JELD-WEN questioned the retro-activity of the 5 ton rule making process to our permit and requested that the DEQ issue the permit. This request was denied and the permit is still on hold. JELD-WEN has worked hard, with DEQ's cooperation, to do all possible to obtain issuance of the permit. DEQ has told us that we have done everything as they would have. I hope that you can appreciate that we have found the attempt to secure this permit frustrating, extremely time consuming, and in light of the continual changing of the "goal posts", unfair.

I have tried to answer your question posed during the phone meeting as briefly as possible and still present a complete picture. I hope I have done so. If you have further questions on this matter, I would be happy to discuss them with you by phone or at your office. Thank you again for your participation in the phone meeting in December.

Sincerely,



Stanley K. Meyers, P.E.  
Vice President of Engineering

SKM/eh  
Encls

cc: ✓ Mr. Bernie Agrons, State Representative  
✓ Mr. Peter Brockman, State Representative  
✓ Mr. Bob Pickard, State Representative  
Mr. Fred Hansen, Director of Dept. of Environmental Quality  
Mr. Nick Nikkila, Administrator, Air Quality Division, DEQ  
✓ Mr. Dave Lohman, State Department of Economic Development  
✓ Mr. Jim Keller, Klamath Falls City Manager  
✓ Mr. Ted Lindow, Klamath Falls County Commissioner  
✓ Mr. Harry Fredricks, Klamath Falls County Commissioner  
✓ Mr. Roger Hamilton, Chairman of the Board, KF County Commissioners  
✓ Mr. Joe Gero, KCEDA

FRED

PLEASE REVIEW

PRELIMINARY

PRELIMINARY

## OUTLINE OF CONSENT DECREE

### PULP & PAPER vs. EPA, OREGON, WASHINGTON

- I. Purpose: To set forth agreements to eliminate measurable discharges of dioxin and reduce to the extent practicable discharges of chlorinated organic compounds from pulp mills via in-plant controls and in-process modifications. Furthermore, it is the long term goal to eliminate the use of chlorine and chlorine compounds in the industrial process. Plaintiff's challenge to listing is recognized and held in abeyance; may be revived at any time.
- II. ICS will consist of this consent decree, draft permits, and accompanying material pursuant to paragraph IX prepared within 90 days of the entry of this decree. Draft permit provisions relating to dioxin, chlorinated organic compounds, and chlorine will be consistent with the provisions of this consent decree.
- III. Defendants recognize that plaintiffs may undertake scientific studies of the appropriateness of existing water quality standards in Oregon and Washington relating to dioxin. Defendants agree that the results of these studies will be considered during the next triennial reviews of state water quality standards (scheduled for 1990).
- IV. Plaintiffs agree to cooperate with defendants to establish a sampling and analysis program to test for the presence of persistent chlorinated organics and 2,3,7,8 TCDD at each mill. The plaintiffs agree to investigate applicable and appropriate internal process modifications and waste treatment modifications to minimize the production of persistent chlorinated organics in concert with the elimination of 2,3,7,8-TCDD in effluent from each mill.

Defendants shall recognize that strategies to minimize persistent chlorinated organics and eliminate 2,3,7,8-TCDD to the maximum extent practicable may be unique to kraft, sulfite and dissolving sulfite mills and that all potential control strategies may not be applicable for every mill. Defendants further recognizes that significant information relating to the control of chlorinated organics will result from the EPA/Industry Cooperative 104 and 25 mill intensive studies due for completion this year. Such information will be used in evaluations and assessments of control strategies.

Control technologies to be evaluated on a mill-by-mill basis, include (but are not limited to):

- a. Improved brownstock washing
- b. Improved chlorine mixing
- c. Improved chlorine control
- d. Extended delignification
- e. PRENOX
- f. Oxygen delignification
- g. Chlorine dioxide substitution
- h. Oxygen bleaching
- i. Further reinforced alkaline extraction stages
- j. End-of-pipe treatment modification
- k. Combinations of these and other strategies.

The study shall include analysis of these technologies with respect to costs, mill configuration, products, and environmental impacts. The study shall address the following potential effluent limits:

(Level 1)

AOX (Absorbable Organic Halogen)	2.0 Kg/tonne of air (4.0 lb/ton) dried bleached pulp
----------------------------------	--

(Level 2)

AOX	1.5 Kg/tonne of air (3.0 lb/ton) dried bleached pulp
-----	--

(Level 3)

AOX	0.5 Kg/tonne of air (1.0 lb/ton) dried bleached pulp
-----	--

(Level 4)

AOX	0.1 Kg/tonne of air (0.2 lb/ton) dried bleached pulp
-----	--

V. Plaintiffs agree that they will immediately begin to take the following actions to provide interim reduction of dioxins produced and discharged at pulp and paper mills operated by them to the extent that such actions are consistent with existing product standards and equipment configurations:

- a. Eliminate brownstock defoamers which contain re-cycled oils or which contain dioxin precursors.
- b. Minimize the use of defoamers and other chemicals which contain dioxin precursors.

- c. Optimize chlorine dioxide substitution to the extent allowed by on-site generation equipment.
- d. Minimize chlorine usage.

Plaintiffs will each complete implementation of the above actions and submit a report of the actions taken to the defendants within 120 days after the date of this agreement.

- VI. Plaintiffs agree that, beginning no later than 3 years after EPA's approval of the applicable draft permit pursuant to paragraph \_\_\_\_\_ hereof, the effluent from each of plaintiff's mills will not contain detectable levels of dioxin. Detectability and analytical protocol for dioxin to be per EPA/Paper Industry Cooperative Dioxin Screening Study (EPA 440/1-88-025). This will constitute compliance with any water quality based limit for dioxin.
- VII. Plaintiffs agree that the NPDES permits governing effluent discharged from each of their mills will contain effluent limitations covering chlorinated organic compounds, expressed as AOX (Absorbable Organic Halogen) (Standard Methods 506). The effluent limitations will be established by the issuing agency (DEQ or Ecology) after consideration of the results of the studies described in paragraph IV. The final compliance date for meeting such effluent limitations will be 5 years from the date of entry of this decree. Plaintiffs agree that they waive their rights to challenge by any legal proceeding whatsoever such effluent limitation if it requires an AOX of 2.0 Kg/tonne of air dried bleach pulp, or is less stringent. More stringent limitations may be challenged in the same manner as appropriate for the issuance of modification of NPDES PERMITS. (If EPA issues effluent limitations guidelines, they will control.)
- VIII. Plaintiffs agree to a long-term goal of eliminating the use of chlorine and chlorine compounds in their mills, and recognize that defendants in future permits may seek to reduce or eliminate chlorine usage.
- IX. Defendants DEQ and Ecology will, by September 15, 1989, prepare draft NPDES permits governing discharges from defendant's listed mills, together with supporting documentation and a schedule for issuance, for EPA approval as an Individual Control Strategy (ICS). These draft permits will all contain reopener clauses providing for the future establishment of AOX effluent limitations as provided in paragraph VII. Once EPA approves the ICS, the NPDES permits will be issued consistent with the approved schedule for issuance. Plaintiffs recognize that in some instances this may require modification of existing NPDES permits, and agree not to challenge whether such modification meets statutory and regulatory provisions establishing grounds for modification of permits.

Hwy. 217 -

take Scholls Ferry Rd.  
exit (the one after  
"Progress" exit).

Turn right at light on exit.

Stay on Scholls Ferry Rd.

Go straight thru 5 traffic  
lights. At the 6<sup>th</sup> light  
(intersection of Murray Rd.)  
go straight, then turn  
in to PGE on your right  
after the light.

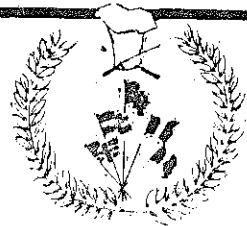
(corner of Murray Rd. & Scholls  
Ferry Rd.)



Beaverton  
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Gresham  
666-5531  
Hillsboro  
648-0743  
Hillsdale  
244-0193  
Hollywood  
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Menlo Park  
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Moreland  
238-1012  
Raleigh Hills  
292-9111  
Tigard  
639-6121  
West Slope  
292-9237  
Tower Mall  
696-0261

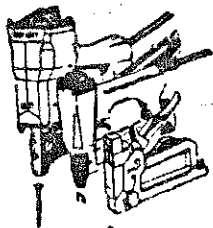
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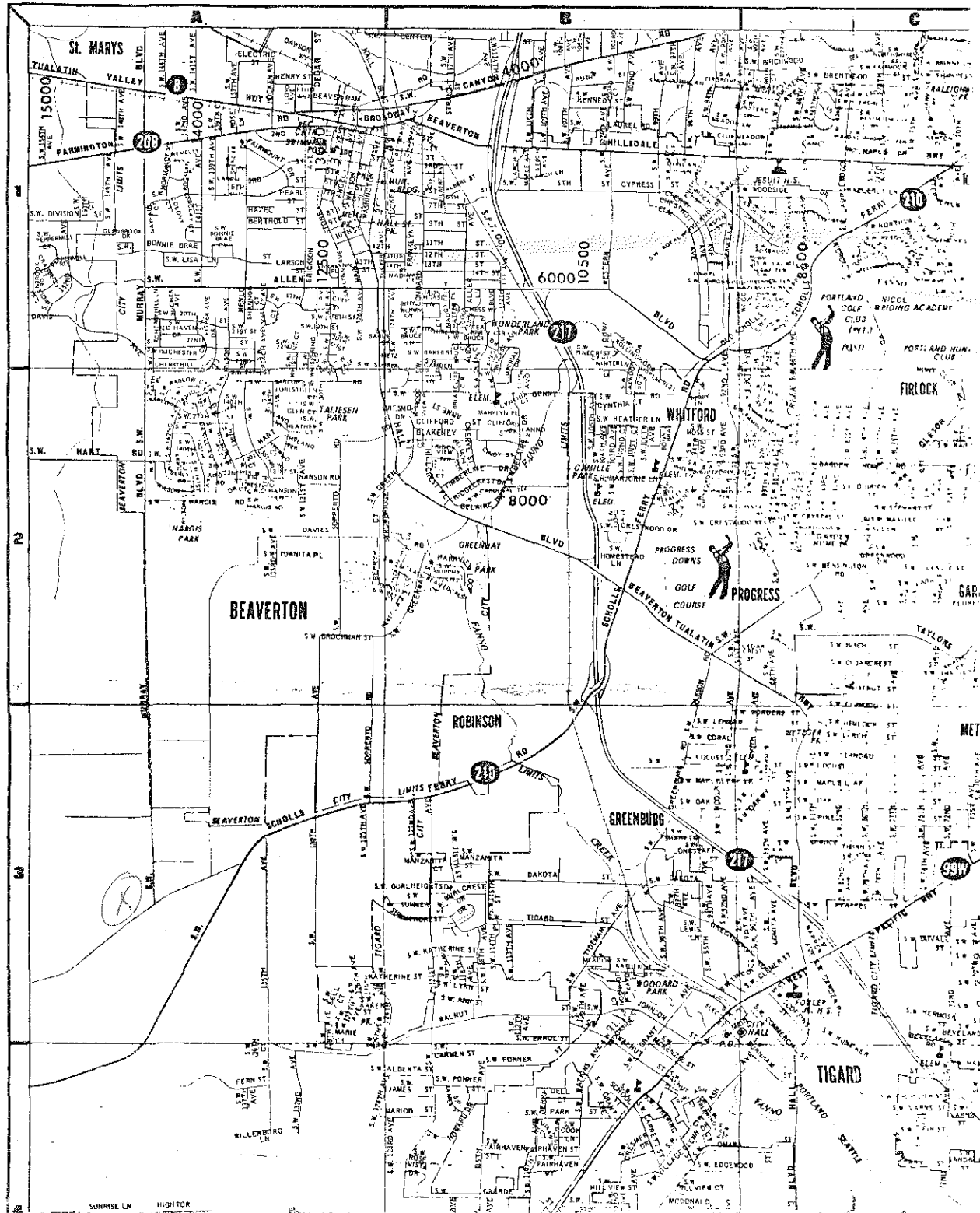
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SALES & SERVICE

1625 S.E. Ankeny Street  
Portland, Oregon 97214

Phone 234-9321

DUO-FAST OREGON CO.





FACILITIES USAGE AGREEMENT

1. Meetings may be scheduled during the day from 8 a.m. to 5 p.m. During business hours 50 vehicle parking spaces are available. Meetings may be scheduled in the evening from 6 p.m. to 10 p.m. Meetings must end at 10 p.m., and participants must leave the premises at that time.
2. Meetings may be scheduled only three months in advance.
3. PGE retains the right to refuse service to any group.
4. PGE functions will be given priority; non-PGE functions during the day are subject to cancellation upon seven days' notice.
5. Weekend meetings will pay custodian charge at prevailing rates.
6. Nonprofit groups must supply tax-exempt ID number or other proof of nonprofit status.
7. Sponsoring groups are responsible for their group members and attendees. The sponsoring group and its participants agree to hold PGE harmless for injury or property damage arising out of or related to their use of the facilities.
8. The public address system and lighting must be arranged in advance and adjusted by PGE only.
9. Successfully performing setup and cleanup activities includes:
  - a. Arrangement of tables and chairs. Plans for rearrangement of auditorium/lunchroom must be cleared in advance. At meeting end, rooms should be restored to their usual setup per custodial guidance.
  - b. Restrooms must be orderly.
  - c. All debris and trash should be deposited in waste receptacles.
10. Cleaning fees will be assessed as a result of any stains to carpet. Fees will be assessed for any damage to or missing PGE property in conjunction with request for use (ie, microphone, extension cord, etc).
11. Inappropriate conduct on the premises may result in future prohibition of building use; misuse of facilities or vandalism may also result in future prohibition as well as charges being assessed to the group. NO ALCOHOL, STREET DRUGS, ETC, ALLOWED ON PREMISES OF FACILITIES.
12. Catering is available through PGE. Any refreshments ordered that amount to over \$50 require a 50 percent deposit. 24 hours' notice must be given to cancel any catering order, and the 50 percent deposit will be forfeited; otherwise, the bill will be for prior arrangements. Outside catering is not permissible unless PGE's catering facilities are unavailable.

-----  
REQUEST FOR USE OF FACILITIES

Name of Group Dept. of Environmental Quality Approx. No. 60

Mailing Address 811 SW 6th, Portland, OR 97204 Phone 229-5395

Status: Nonprofit ID XX Contact Person Julie

Facilities Room Auditorium

Date(s) June 2, 1989 Time 8:00AM - 5:00PM

Catering Requested Will call 1 week prior to meeting.

Custodial Services for

Rearrangement of Auditorium/Lunchroom: Yes  No  Will Notify ASAP

I have read, understand and agree to the above contract terms.

Signature Martene Miller Date 5-11-89

Please return the bottom portion of this contract along with your payment or proof of nonprofit status as soon as possible to Maryann Seidel, c/o Portland General Electric, 14655 SW Old Scholls Ferry Road, Beaverton, Oregon 97007, in order to secure your room reservation(s).

INDEMNITY CLAUSE

THE STATE OF OREGON AGREES TO BE RESPONSIBLE FOR ANY DAMAGE OR ANY THIRD PARTY LIABILITY WHICH MAY ARISE FROM ITS USE OF PORTLAND GENERAL ELECTRIC CO. FACILITIES ARISING FROM OR OUT OF THE USE OF ITS SERVICES OR EQUIPMENT SUBJECT TO THE LIMITATIONS AND CONDITIONS OF THE OREGON TORT CLAIMS ACT, ORS 30.260 THROUGH 30.300, AND THE OREGON CONSTITUTION ARTICLE XI, SECTION 7, TO THE EXTENT OF LIABILITY ARISING OUT OF THE NEGLIGENCE OF THE STATE.

*Madene Miller*

-----  
authorized signature

5-10-89

-----  
date



DESIGN AND SALES OF CUSTOM BUILT MACHINERY  
P.O. BOX 1540 — PHONE (503) 883-3373  
KLAMATH FALLS, OREGON 97601

May 22, 1989

Mr. William P. Hutchison, Chairman, EQC  
Tooze, Marshall, Shenker, Holloway & Duden  
333 S.W. Taylor St.  
Portland, OR 97204, 2496

Dear Mr. Hutchison:

I would like to thank you and the members of the Commission for the time and effort to examine the issues concerning the proposed emission limit change from 15 tons to 5 tons at the April 14th, EQC hearing. Two issues received considerable discussion at this hearing.

First is the issue of woodstove "buy-outs" as offsets. The Klamath Basin's industries support this idea as an approach that, in the right cases, will spend abatement dollars where it can make the greatest impact for the dollars spent. These offsets may be the only offsets available to new industries, or small industries with no potential on site offsets available. However, caution needs to be exercised. Until the amount of these offsets is inventoried, a determination of how many of the public will be willing to participate, the amount of reduction allowed for each type of appliance determined, a written program addressing the many other details is accepted by DEQ, EPA and our local jurisdictions, the feasibility of this proposed program will remain in question. Passing the proposed rule change assuming this offset program as a viable alternative is premature.

Secondly, there was considerable discussion concerning retroactivity and JELD-WEN's pending permit. I have included my January 16th letter to Ms. Gail Achterman which clearly outlines the steps, beginning 15 months ago, to obtain this permit. To impose yet another rule change to this permit after cooperating with the Department to comply with the 15 ton limit, will send a disturbing message to Oregon's present and potential new industries as to the ability to plan capital outlays with the assurance that the goal posts won't be moved. This, coupled with the comment by Mr. Hanson at the April 14th hearing; that making the rule retroactive would have "no practical effect", and later comments by others that rule changes; "normally apply to all new or permits which subsequently request modifications" argue strongly against making this rule retroactive.

The above items deal with the effects of the rule should it be adopted. However, we continue to believe that the need for this rule change has not been shown. The Department's staff report does not discuss the effects of the recent adoption of PM10 rules which have already reduced the trigger point for new source review from 250 to 15 tons (a 17 times reduction). Additionally, no quantitative analysis demonstrating the need for this tonnage reduction and its contribution to solving the problem is presented. With a 4% worst day and 7% annual contribution (DEQ's figures from Agenda item H, Nov. 4, 1988, EQC meeting) a more clearly defined need has to be shown before adoption of this rule change should be considered.

May 22, 1989  
Mr. William P. Hutchison, Chairman  
Page #2

I also am concerned that the cost in capital equipment outlays has been underestimated and that the impact on economic development has not been addressed at all. This is of particular concern when viewed from the perspective of industry's minority contribution to the problem. A study of the impact on our area by the Departments of Energy and Economic Development should be requested and be a part of this decision.

I have discussed this proposed rule change with Representative Bernie Agrons. My understanding in those discussions is that Representative Agrons believes we should focus our attention on the real problem, particulate discharges from wood stoves, through enactment of SB422. It is my further understanding that he believes substantial progress needs to be made by SB422 before there is a need to address tonnages from industry in the Klamath Basin. Any other approach will divert attention from the real problem and provide little, if any, help towards its solution.

I hope that these comments and attachments will be helpful information. I would be happy to discuss any questions you may have. Thank you for your continuing consideration of this matter.

Sincerely,



Stanley K. Meyers, P.E.  
Vice President of Engineering  
BEN-FAB Division of JELD-WEN

cc: Mr. B. Agrons, State Representative  
Mr. P. Brockman, State Representative  
Mr. B. Pickard, State Representative  
Mr. D. Lohman, State Dept of Economic Development  
Mr. J. Keller, Klamath Falls City Manager  
Mr. T. Lindow, Klamath County Commissioner  
Mr. H. Fredricks, Klamath County Commissioner  
Mr. R. Hamilton, Klamath County Commissioner  
Mr. J. Gero, KCEDA  
Dr. E. Castle, EQC Vice Chairman  
Mr. W. Brill, EQC  
Mr. W. Wessinger, EQC  
Ms. G. Sage, EQC



DESIGN AND SALES OF CUSTOM BUILT MACHINERY  
P.O. BOX 1540 — PHONE (503) 883-3373  
KLAMATH FALLS, OREGON 97601

January 16, 1989

Ms. Gail L. Achterman  
Assistant to the Governor for Natural Resources  
Office of the Governor  
State Capitol  
Salem, OR 97310-0370

Dear Ms. Achterman:

I would like to thank you for your interest regarding the hearings on the 15 ton to 5 ton change proposed by DEQ for the Klamath Falls area. Your willingness to meet with our City, County and industrial representatives to discuss the problem, the timing of the hearings, and your letter of December 12th in response to my concerns is most appreciated. I understand that Dave Lohman sacrificed other things on his schedule and I also appreciated his participation.

During the conference call meeting, you asked about the withholding of approval for JELD-WEN's pending permit modification. Because the primary reason for the conference call was the timing of the hearings, and because of the limitations of the telephone format, this subject was not thoroughly discussed. Since we have found this permit to be extremely difficult, to have it currently on hold because of changing rules which are to be made retro-active, and to thoroughly answer the question you raised on the phone, I have outlined the history of this permit below.

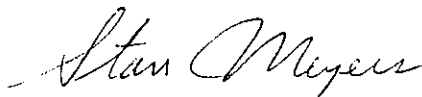
1. The original permit modification request was made February 22, 1988, with assurances from the regional (Bend) office that the rules in effect at the time applied. These rules permitted an 0.1 grain per dry standard cubic foot, less than 20% opacity, and up to 250 tons per year total plant site emissions.
2. The DEQ requested further information for the permit review, by letter, on March 28, 1988. JELD-WEN responded by letter dated April 6, 1988.
3. JELD-WEN subsequently received a letter from DEQ, dated June 27, 1988, informing us of the adoption of PM10 standards for the State on April 29th. Since the adoption of the rules was made retro-active to comply with the Federal adoption date, of June, 1987, our application was required to comply with the new standards. It is important to note that this letter recommended revising the application to comply with new standards of 15 tons PM10 and 25 tons TSP.

4. A meeting was held with Tom Bispham, Lloyd Kostow, Don Neff and John Hector of DEQ to review the letter and determine the best course of action on July 7th. JELD-WEN questioned the "retro-activity" at this time but agreed to work with DEQ staff to modify the permit modification to comply with the 15 ton limit. After considerable work with Don Neff, this was accomplished and the permit resubmitted.
5. DEQ issued "a chance to comment on . . .", dated September 1st, indicating the permit would be issued "unless significant issues are raised during the comment period."
6. We were informed on October 14th, that a hearing had been requested by the County Health Services Administration and also that the Department was going to propose more stringent rules, requiring a 5 ton limit, for the Klamath Falls area. The hearing request has since been withdrawn. At this time, our permit is again on hold and DEQ has told us the new rules will be retro-active to include our permit.

A meeting was held with Fred Hansen, Nick Nikkila and others November 16th. JELD-WEN questioned the retro-activity of the 5 ton rule making process to our permit and requested that the DEQ issue the permit. This request was denied and the permit is still on hold. JELD-WEN has worked hard, with DEQ's cooperation, to do all possible to obtain issuance of the permit. DEQ has told us that we have done everything as they would have. I hope that you can appreciate that we have found the attempt to secure this permit frustrating, extremely time consuming, and in light of the continual changing of the "goal posts", unfair.

I have tried to answer your question posed during the phone meeting as briefly as possible and still present a complete picture. I hope I have done so. If you have further questions on this matter, I would be happy to discuss them with you by phone or at your office. Thank you again for your participation in the phone meeting in December.

Sincerely,



Stanley K. Meyers, P.E.  
Vice President of Engineering

SKM/eh  
Encls

- cc: ✓ Mr. Bernie Agrons, State Representative  
✓ Mr. Peter Brockman, State Representative  
✓ Mr. Bob Pickard, State Representative  
Mr. Fred Hansen, Director of Dept. of Environmental Quality  
Mr. Nick Nikkila, Administrator, Air Quality Division, DEQ  
✓ Mr. Dave Lohman, State Department of Economic Development  
✓ Mr. Jim Keller, Klamath Falls City Manager  
✓ Mr. Ted Lindow, Klamath Falls County Commissioner  
✓ Mr. Harry Fredricks, Klamath Falls County Commissioner  
✓ Mr. Roger Hamilton, Chairman of the Board, KF County Commissioners  
✓ Mr. Joe Gero, KCEDA



# CITY OF KLAMATH FALLS, OREGON

AN EQUAL OPPORTUNITY EMPLOYER  
P.O. Box 237  
97601



SISTER CITY  
ROTORUA, NEW ZEALAND

February 28, 1989

John Core, Hearings Officer  
Department of Environmental Quality  
811 S. W. Sixth Avenue  
Portland, OR 97204-1390

Re: Air Quality

Gentlemen:

The Klamath County air shed should not be grouped into a Southern Oregon solution. The industrial contribution to the problem is so small that we need to concentrate our efforts on incentives which do not conflict with the Oregon economic recovery program. The City and County are jointly pledged to an air shed management program supported by industrial permit holders with three major thrusts.

The first is an incentive program for industry to reduce the residential contribution through a retrofit program in lieu of air scrubbers. The second is a voluntary emission control on days of heavy inversion. The third element is an effort to create incentive programs to address the economically disadvantaged, single-source wood burning problems.

The E.P.A. regulations offer a longer period to address the problem. If the Environmental Quality Commission adopts these rules, the local industries will be impacted and the PM<sup>10</sup> problem will remain. We are in this air-quality dilemma due to energy polices which were supported by State and Federal incentives to burn wood. The emissions are coming out of "state-approved" burning devices and the air-quality findings are only two years old. I do not believe that hastily-drawn controls imposed on 4% of the problem will solve the problem.

I am again requesting that the Departments of Energy and Economic Development review this policy to determine the local impact. Our people deserve more than a pendulum approach to problem solving.

I believe that inclusion of Klamath County in a 15 to 5 ton industrial limit will decrease the effectiveness of our air management program. I am therefore requesting that the D.E.Q.

500 KLAMATH AVENUE  
MAYOR  
CITY MANAGER  
883-5318  
PERSONNEL  
DIRECTOR  
883-5316  
CITY ATTORNEY  
883-5323  
FINANCE / INFORMATION  
883-5310  
WATER & SEWER  
UTILITIES DEPARTMENT  
883-5301

MEMORIAL DRIVE  
ANIMAL CONTROL  
883-5379  
AIRPORT  
MUNICIPAL AIRPORT  
883-5372

425 WALNUT STREET  
POLICE DEPARTMENT  
883-5336  
143 BROAD STREET  
FIRE DEPARTMENT  
883-5351  
CODE ENFORCEMENT  
883-5358

226 SOUTH FIFTH STREET  
PARKS, RECREATION  
AND CEMETERIES  
883-5371  
BUSINESS LICENSE  
883-5360  
PUBLIC WORKS  
883-5363  
PLANNING  
883-5361

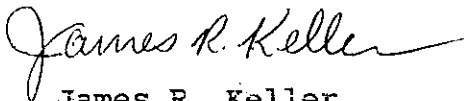


recommend State rulemaking to exclude Klamath County for three years to test our management program on our air problem.

If at the conclusion of a three-year trial period we have not significantly reduced the PM<sup>10</sup> emission, I will support the inclusion of Klamath County in a state-wide limit which you suggest.

I look forward to working with you and if we can be of any further assistance, please let me know.

Sincerely,



James R. Keller  
City Manager

JRK:ldf

cc: Nick Nikkila, Air Quality Administrator  
William P. Hutchison, EQC Chairman  
Dr. Emery N. Castle, EQC Vice Chairman  
Wallace B. Brill, EQC Commission  
Genevieve Pisarski Sage, EQC Commission  
William W. Wessinger, EQC Commission  
Representative Bernie Agrons

bcc: Stan Meyers  
Commissioner Ted Lindow



DESIGN AND SALES OF CUSTOM BUILT MACHINERY  
P.O. BOX 1540 — PHONE (503) 883-3373  
KLAMATH FALLS, OREGON 97601

April 12, 1989

TO: ENVIRONMENTAL QUALITY COMMISSION

RE: PROPOSED RULE ADOPTION FOR KLAMATH FALLS URBAN GROWTH  
BOUNDARY

Dear Members of the Commission:

The DEQ staff report under consideration refers to the Klamath Falls Air Shed as having a serious PM<sub>10</sub> air quality problem. Those of us involved in this issue would all agree. However, the report does not quantify the problem and current data for recently measured levels of PM<sub>10</sub> are not presented. According to the Klamath County Health Office, the Klamath Air shed was above the 150 ug/m level 39 days for the 1988-1989 heating season with an average PM<sub>10</sub> count of 238 ug/m and a high for the season of 417. For the 130 days of this most recent heating season, the average daily PM<sub>10</sub> count was 119 ug/m with a standard deviation of 90. This is a significant improvement over prior years when the 700 level was reached several times and is largely attributable to the voluntary compliance program. A 4% worst day contribution, with a maximum contribution of 17 ug/m<sup>3</sup> further demonstrates industries minor contribution to the out-of-compliance days. A more factual presentation, clearly demonstrating the need for these rules should be requested by the EQC before these rules are adopted. Additionally, more time should be allowed for the voluntary program to work and Klamath County to develop the proposed air quality management plan before passing increasingly stringent rules for industry.

The report recognizes the costs of the proposal to be far greater than initially stated. Even though the cost per ton figures are in the original range, the physical implementation of this kind of hardware is done on the size required for the facility, not on an incremental ton basis. For any existing industry, if the reduction causes LAER to be triggered, the \$350,000 or greater costs are going to happen. Even the Department's report recognizes these costs to be "more typical of the smaller industries located in the Klamath Falls UGB" and estimates the one source costs as high as \$800,000.00. At the 5 ton levels, simply increasing operating hours may cause these costs to be incurred. No answers to the potential cost on economic development have been put forward. These costs are potentially greater than the capital costs described above and should be calculated and taken into consideration before these rules are passed.

April 12, 1989

Page #2

TO: ENVIRONMENTAL QUALITY COMMISSION

RE: PROPOSED RULE ADOPTION FOR KLAMATH FALLS URBAN GROWTH  
BOUNDARY

The offsetting of woodstove emissions is presented as a less cost alternative. JELD-WEN, the other basin industries, Klamath County and the City all support this concept. However, until this program is in place, accepted by DEQ, EQC and EPA, and the availability of willing households verified, the viability of this alternative is unknown. Development of this offset program, including agreements from EPA and others, and a determination of its actual potential should be in place before passing these rules. Adopting rules now, based on these offsets being available is "betting on the come". The report states that 100 tons of offsets are available by reducing emissions to Medford levels. These are, however, only available by the application of the high cost technology described above.

The Department continues to express the need for this rule change to be retroactive. The numbers presented above, and the consideration of 1 ug/m<sup>3</sup> out of an allowable 150 (or only .066%) do not make a case for retroactivity. Furthermore, JELD-WEN's permit has now been on hold for 14 months and if retroactive, this would represent the third (3rd) set of rules applied to it. This is simply not fair treatment of an Oregon industry, sends the wrong message to industry (both existing and potential), and is at odds with the Governor's Oregon Comeback program. Furthermore, the withholding of this permit has continued to delay the testing of this project and any modifications which may be required to achieve compliance. Finally, to my knowledge, the adoption of a rule has never before been made retroactive. Setting this precedent with its negative impact on the goals of both the Department and industry is in the interest of neither party.

The report states the concern about "the inequity of seeking public cooperation in extensive control of emissions from woodheating households while permitting major expansions in industrial emissions". The existing rules, only one year old and 17 times more stringent than those replaced, already do not allow major increases without LAER to mitigate them. Representing the difference between 15 tons and 5 tons as major is misleading. Recognition of the fact that industry has been under regulation for air emissions since the early 1970's and recent changes that have radically tightened the rules needs to be given consideration. In fact, for the situation to be equitable, rules similar to those for industry (PM10 & opacity limits) should be in place for woodsmoke, field burning and other sources before rules for industry need to be further addressed.

April 12, 1989  
Page #3

TO: ENVIRONMENTAL QUALITY COMMISSION

RE: PROPOSED RULE ADOPTION FOR KLAMATH FALLS URBAN GROWTH  
BOUNDARY

In conclusion, let me state the following:

1. The staff report does not substantiate with current data, the conclusion that the 5 ton limit for industry is needed.
2. Costs in the \$350,000 to \$800,000 range to control a medium size boiler or other facility are not warranted by the 0.3% improvements anticipated.
3. The retroactive part of this proposal is, representing 1 ug/m out of an allowed 150, not necessary and will have negligible affect on the ability to attain compliance of the Klamath air shed. For an agency to terminate the permit process (initiated on September 15, 1988) after having already gone through the public comment period which states; "DEQ plans to grant the permits unless significant issues are raised during the comment period", is grossly unfair and in this case unjustified. Is this the message we want to send to Oregon's industries?
4. The concern of public perception fails to recognize long standing regulation of industrial control and substantial tightening of the rules less than one year ago. Although politics is an important part of this issue, they are far outweighed by the history of control and the minor contribution of industry in this particular air shed. It is significant to note that Mr. Perry Rickard, Klamath County Health Officer, is on public record as opposing the need for both this rule and its retroactive provision.

It is JELD-WEN's recommendation that this proposal is not adopted. However, if they are adopted, it is our very strong request that the retroactive provision of the rule be deleted. Thank you for the opportunity to present these comments.

Sincerely,



Stanley K. Meyers, Vice President Engineering  
JELD-WEN, inc., BEN-FAB Division

SKM/jh

(A) If the cost to replace or reconstruct the facility is greater than the like-for-like replacement cost of the original facility due to a requirement imposed by the Department, the Federal Environmental Protection Agency or a regional air pollution authority, then the facility may be eligible for tax credit certification up to an amount equal to the difference between the cost of the new facility and the like-for-like replacement cost of the original facility; or

(B) If a facility is replaced or reconstructed before the end of its useful life then the facility may be eligible for the remainder of the tax credit certified to the original facility.

(g) Property or facilities installed, constructed or used for cleanup of emergency spills or unauthorized releases. This includes any facility installed, constructed or used for cleanup after a spill or unauthorized release has occurred.

(4) Any person may apply to the Commission for certification under ORS 468.170 of a pollution control facility or portion thereof erected, constructed or installed by the person in Oregon if:

(a) The air or water pollution control facility was erected, constructed or installed on or after January 1, 1967.

(b) The noise pollution control facility was erected, constructed or installed on or after January 1, 1977.

(c) The solid waste facility was under construction on or after January 1, 1973, or the hazardous waste, used oil, material recovery, or recycling facility was under construction on or after October 3, 1979, and if:

(A) The facility's principal or sole purpose conforms to the requirements of ORS 468.155(1);

(B) The facility will utilize material that would otherwise be solid waste as defined in ORS 459.005, hazardous waste as defined in ORS 466.005 or used oil as defined in ORS 468.850:

(i) By mechanical processing or chemical processing; or

(ii) Through the production, processing, presegregation, or use of:

(I) Materials which have useful chemical or physical properties and which may be used for the same or other purposes; or

(II) Materials which may be used in the same kind of application as its prior use without change in identity;

(C) The end product of the utilization is an item of real economic value;

(D) The end product of the utilization, is competitive with an end product produced in another state; and

(E) The Oregon law regulating solid waste imposes standards at least substantially equivalent to the federal law.

(d) The hazardous waste control facility was erected, constructed or installed on or after January 1, 1984 and if:

(A) The facility's principal or sole purpose conforms to the requirements of ORS 468.155(1); and

(B) The facility is designed to treat, substantially reduce or eliminate hazardous waste as defined in ORS 466.005.

(5) The Commission shall certify a pollution control, solid waste, hazardous waste or used oil facility or portion thereof, for which an application has been made under ORS 468.165, if the Commission finds that the facility:

(A) Was erected, constructed or installed in accordance with the requirements of ORS 468.165(1) and 468.175;

(B) Is designed for, and is being operated or will operate in accordance with the requirements of ORS 468.155; and

(C) Is necessary to satisfy the intents and purposes of and is in accordance with the applicable Department statutes, rules and standards.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 12-1984, f. & ef. 7-13-84; DEQ 5-1985, f. & ef. 3-12-85; DEQ 20-1987, f. & ef. 12-16-87

Determination of Percentage of Certified Facility Cost Allocable to Pollution Control

340-16-030 (1) Definitions:

(a) "Annual operating expenses" means the estimated costs of operating the claimed facility including labor, utilities, property taxes, insurance, and other cash expenses, less any savings in expenses attributable to installation of the claimed facility. Depreciation, interest expenses, and state and federal taxes are not included.

(b) "Average annual cash flow" means the estimated average annual cash flow from the claimed facility for the first five full years of operation calculated as follows:

(A) Calculate the annual cash flow for each of the first five full years of operation by subtracting the annual operating expenses from the gross annual income for each year; and

(B) Sum the five annual cash flows and divide the total by five. Where the useful life of the claimed facility is less than five years, sum the annual cash flows for the useful life of the facility and divide by the useful life.

(c) "Claimed facility cost" means the actual cost of the claimed facility minus the salvage value of any facilities removed from service.

(d) "Gross annual income" means the estimated total annual income from the claimed facility derived from sale or reuse of recovered materials or energy or any other means.

(e) "Salvage value" means the value of a facility at the end of its useful life minus what it costs to remove it from service. Salvage value can never be less than zero.

(2) In establishing the portion of costs properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil for facilities qualifying for certification under ORS 468.170, the Commission shall consider the following factors and make appropriate findings regarding their applicability:

(a) The extent to which the facility is used to recover and convert waste products into a salable or usable commodity;

(b) The estimated annual percent return on the investment in the facility;

(c) The alternative methods, equipment and costs for achieving the same pollution control objective;

(d) Related savings or increase in costs which occur or may occur as a result of the installation of the facility; or

(e) Other factors which are relevant in establishing the portion of the actual cost of the facility properly allocable to the prevention, control or reduction of air, water or noise pollution or solid or hazardous waste or to recycling or properly disposing of used oil.

(3) The portion of actual costs properly allocable shall be from zero to 100 percent in increments of one percent. If zero percent, the Commission shall issue an order denying certification.

(4) In considering the factors listed in OAR 340-16-030, the Commission may determine in its findings that one or more factors are more important than others and may assign different weights to the factors when determining the portion of costs properly allocable to pollution control.

tion, construction or installation of the facility was completed before December 31, 1990.

(E) Certification of a pollution control facility qualifying under ORS 468.165(1) shall be granted for a period of 10 consecutive years. The 10-year period shall begin with the tax year of the person in which the facility is certified under this section. However, if ad valorem tax relief is utilized by a corporation organized under ORS Chapter 61 or 62 the facility shall be exempt from ad valorem taxation, to the extent of the portion allocable, for a period of 20 consecutive years, or 10 years if construction is commenced after June 30, 1989 and completed before December 31, 1990, from the date of its first certification by the Commission.

(F) Portions of a facility qualifying under ORS 468.165(1)(c) may be certified separately under this section if ownership of the portions is in more than one person. Certification of such portions of a facility shall include certification of the actual cost of the portion of the facility to the person receiving the certification. The actual cost certified for all portions of a facility separately certified under this subsection shall not exceed the total cost of the facility that would have been certified under one certificate. The provisions of ORS 316.097(8) or 317.116 whichever is applicable, shall apply to any sale, exchange or other disposition of a certified portion of a facility.

(c) Rejection: If the Commission rejects an application for certification, or certifies a lesser actual cost of the facility or a lesser portion of the actual cost properly allocable to pollution control, material recovery or recycling than was claimed in the application for certification, the Commission shall cause written notice of its action, and a concise statement of the findings and reasons therefore, to be sent by registered or certified mail to the applicant.

(3) Appeal: If the application is rejected for any reason, or if the applicant is dissatisfied with the certification of actual cost or portion of the actual cost properly allocable to pollution control, resource recovery or recycling, the applicant may appeal from the rejection as provided in ORS 468.110. The rejection of the certification is final and conclusive on all parties unless the applicant takes an appeal therefrom as provided in ORS 468.110 before the 30th day after notice was mailed by the Commission.

Stat. Auth.: ORS Ch. 468

Hist.: DEQ 12-1984, f. & ef. 7-13-84; DEQ 5-1985, f. & ef. 3-12-85; DEQ 20-1987, f. & ef. 12-16-87

#### Qualification of Facility for Tax Credits

340-16-025 (1) "Pollution control facility" or "facility" shall include any land, structure, building, installation, excavation, machinery, equipment or device, or alternative methods for field sanitation and straw utilization and disposal as approved by the Field Burning Advisory Committee and the Department, or any addition to, reconstruction of or improvement of, land or an existing structure, building, installation, excavation, machinery, equipment or device reasonably used, erected, constructed or installed by any person, which will achieve compliance with Department statutes and rules or Commission orders or permit conditions, where applicable, if:

(a) The principal purpose of the facility is to comply with a requirement imposed by the Department, the Federal Environmental Protection Agency or regional air pollution

authority to prevent, control or reduce air, water or noise pollution or solid or hazardous waste or to recycle or provide for the appropriate disposal of used oil; or

(b) The sole purpose of the facility is to prevent, control or reduce a substantial quantity of air, water or noise pollution or solid or hazardous waste or to recycle or provide for the appropriate disposal of used oil.

(2) Such prevention, control or reduction required by this section shall be accomplished by:

(a) The disposal or elimination of or redesign to eliminate industrial waste and the use of treatment works for industrial waste as defined in ORS 468.700;

(b) The disposal or elimination of or redesign to eliminate air contaminants or air pollution or air contamination sources and the use of air cleaning devices as defined in ORS 468.275;

(c) The substantial reduction or elimination of or redesign to eliminate noise pollution or noise emission sources as defined by rule of the Commission;

(d) The use of a material recovery process which obtains useful material from material that would otherwise be solid waste as defined in ORS 459.005, hazardous waste as defined in ORS 466.005, or used oil as defined in ORS 468.850;

(e) The treatment, substantial reduction or elimination of or redesign to treat, substantially reduce or eliminate hazardous waste as defined in ORS 466.005; or

(f) Approved alternative field burning methods and facilities which shall be limited to:

(A) Equipment, facilities, and land for gathering, densifying, processing, handling, storing, transporting and incorporating grass straw or straw based products which will result in reduction of open field burning;

(B) Propane flammers or mobile field sanitizers which are alternatives to open field burning and reduce air quality impacts; and

(C) Drainage tile installations which will result in a reduction of grass seed acreage under production.

(g) Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases.

(3) "Pollution control facility" or "facility" does not include:

(a) Air conditioners;

(b) Septic tanks or other facilities for human waste;

(c) Property installed, constructed or used for moving sewage to the collecting facilities of a public or quasi-public sewerage system;

(d) Any distinct portion of a solid waste, hazardous waste or used oil facility that makes an insignificant contribution to the purpose of utilization of solid waste, hazardous waste or used oil including the following specific items:

(A) Office buildings and furnishings;

(B) Parking lots and road improvements;

(C) Landscaping;

(D) External lighting;

(E) Company signs;

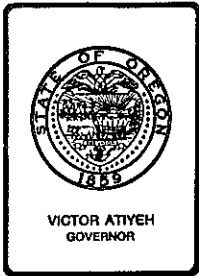
(F) Artwork; and

(G) Automobiles.

(e) Facilities not directly related to the operation of the industry or enterprise seeking the tax credit;

(f) Replacement or reconstruction of all or a part of any facility for which a pollution control facility certificate has previously been issued under ORS 468.170, except:

2



*Department of Environmental Quality*  
**WILLAMETTE VALLEY REGION**

895 SUMMER, N.E., SALEM, OR 97310, PHONE (503) 378-8240

July 22, 1986

Mr. Scott Forrest  
Forrest Paints  
P.O. Box 2768  
Eugene, OR 97402

RE: New Dates for  
Closure Activity

As discussed on July 16, 1986, the following dates are proposed for activities and submittals concerning the closure action at your facility:

Filing of a Part A notification	September 1, 1986
Submittal of preliminary groundwater monitoring plan to DEQ to be reviewed for adequacy.	October 1, 1986
Submittal of finalized groundwater monitoring plan to DEQ, (based on DEQ and Water Resources comments).	December 1, 1986
Completion of installation of groundwater monitoring wells and assess gradient (and judge adequacy of gradient determination).	February 1, 1987
Submittal of analytical results of groundwater sampling (1st quarter).	May 1, 1987
Submittal of groundwater analytical results again for:	
Second quarter	August 1, 1987
Third quarter	November 1, 1987
Fourth quarter	February 1, 1988
Submittal of closure plan (including past practices and identification of waste management unit).	May 1, 1988

These dates are negotiable at this time. Please review them and any completion dates you feel are unrealistic to the project, please send me an alternative.

The agreed upon dates will be used in the Stipulated Consent Order signed by you and by the Director of DEQ.

Sincerely,

*Cynthia Parker*  
Cynthia Parker FOR  
Hazardous Waste Consultant

CLP/wr  
cc: Stan Sturges, CH2M-Hill, Corvallis  
cc: Dick Bach, Stoles, Rives, et al  
cc: HW-SW Division  
cc: Regional Operations Division

3

## INTRODUCTION

This document provides a work plan for implementing a groundwater monitoring program at the Forrest Paint Company in Eugene, Oregon. Figure 1 is a location map. The objectives of this groundwater monitoring plan are to: 1) identify potential contaminant pathways, 2) support the placement of wells capable of determining the facility's impact on the uppermost aquifer, and 3) establish appropriate techniques for installing wells, collecting and analyzing samples, and interpreting monitoring data.

This groundwater detection monitoring plan has been prepared in response to the DEQ's proposed schedule of "closure actions" for Forrest Paint (attached in Appendix A) and in accordance with EPA guidance for preparing groundwater monitoring plans (EPA, 1985).

## NATURE AND EXTENT

The focus of this plan is the assessment of groundwater contamination from the Forrest Paint facility. Figure 2 is a site map. In February 1986, the Forrest Paint Company initiated a site investigation with the objective of identifying and characterizing soil contamination onsite.

## EXTENT OF CONTAMINATION

The site investigation included eight soil borings with interval sampling. Phase II of the site investigation was completed in April 1986 with the results described in a report entitled "Forrest Paint Co. Site Investigation: Phases I & II, April 1986." The findings were:

FROM REVISED GROUNDWATER MONITORING  
PLAN SUBMITTED TO DEQ SEPTEMBER  
1986 BY CH2M HILL.



GROUNDWATER MONITORING

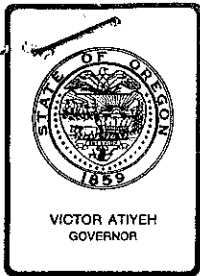
APPROACH

Specific requirements of a groundwater detection monitoring plan for the Forrest Paint Site include:

- o Further characterize site hydrogeology to determine well placement and screened intervals.
- o Implement a system of downgradient wells sufficient to provide a high level of certainty that releases of hazardous waste constituents into the uppermost aquifer will be detected (minimum of three wells required).
- o Implement a system of upgradient wells that reflect background water quality (minimum of one well required).
- o Determine the groundwater flowrate and direction in the uppermost aquifer.

Previous investigations at the Forrest Paint site and a review of hydrogeologic literature indicate shallow groundwater conditions at the site have a relatively flat gradient. Regional flow in the area is to the west-northwest, although nearby hydrologic features could cause local conditions to differ (e.g., Amazon Creek to the south and the Willamette River to the northeast). Shallow groundwater wells do not exist near the site, the closest wells (several 1,000 feet from the site) penetrate much deeper than the uppermost aquifer and would not provide information on the surficial groundwater conditions. Due to the uncertainty of the local gradient conditions, the investigation will be completed in phases. This will allow for interpretation of the field

4A



## Department of Environmental Quality

522 S.W. FIFTH AVENUE, BOX 1760, PORTLAND, OREGON 97207 PHONE (503) 229-5696  
Willamette Valley Region Office  
895 Summer St. N.E., Salem, OR 97310

December 17, 1986

Scott Forrest  
Forrest Paint Company  
1011 McKinley West  
P.O. Box 2768  
Eugene, OR 97402

RE: HW-Forrest Paints  
Tentative Compliance dates

Mr. Forrest:

In regards to our conversation of December 8, 1986, and your communication of November 27, 1986, I see no problem with the delay of the submittal of the final groundwater monitoring plan until January 6, 1987, as you verbally requested.

However, this may cause some problems with subsequent dates, in particular the February 1, 1987, date for completion of installation of the wells.

May I suggest the following:

		<u>Revise to be:</u>
Submittal of finalized groundwater monitoring plan to DEQ, (based on DEQ and Water Resources comments).	Dec. 1, 1986	Jan. 15, 1987
Completion of installation of groundwater monitoring wells and assess gradient (and judge adequacy of gradient determination).	Feb. 1, 1987	Mar. 1, 1987

And the others to remain as:

Submittal of analytical results of groundwater sampling (1st quarter).	May 1, 1987
Submittal of groundwater analytical results again for:	
Second quarter	Aug. 1, 1987
Third quarter	Nov. 1, 1987
Fourth quarter	Feb. 1, 1988
Submittal of closure plan (including past practices and identification of waste management unit).	May 1, 1988

Forrest Paint Company  
December 17, 1986  
Page 2

This would allow your consultant some time to review issues resulting from our proposed January 6, 1987 meeting and give you a more reasonable time to install the wells.

Please notify me if you have problems with this.

Sincerely,

*Cynthia Parker*

Cynthia Parker  
Hazardous Waste Consultant

CLP/fh

cc: Hazardous Waste Section  
cc: Regional Operations

*Forrest  
8/1/1977  
Unauthorized  
11/81*

6

FORREST PAINT COMPANY  
GROUNDWATER MONITORING PLAN SUPPLEMENT  
January 22, 1987

INTRODUCTION

In September 1986, Forrest Paint submitted a groundwater monitoring plan to:

- o Further characterize site hydrogeology to determine well placement and screening intervals
- o Install downgradient wells to detect any releases of hazardous waste constituents into the uppermost aquifer
- o Install an upgradient well to characterize background water quality
- o Determine the groundwater flowrate and direction in the uppermost aquifer

A two-phase approach was proposed. Phase I was to include the installation of three monitoring wells with the primary objective of determining the groundwater gradient. Phase II was to include additional monitoring wells necessary to meet the above objectives.

This supplement presents a proposal to proceed with Phase I of the monitoring plan, with some modifications. These modifications include well locations, well installation methods, soil sampling methods, laboratory analysis, and project schedule.

SITE CONTAMINATION

Site contamination is characterized in Figure 1 (this characterization includes information from the Phase III sampling effort, December 1986). These contaminant zones are only estimates based on limited data, but represent the current understanding of contaminant distribution. They provide the basis for placement of the groundwater monitoring wells.

WELL LOCATION

Proposed locations for Phase I monitoring wells are also shown in Figure 1. The triangular orientation is optimum for groundwater gradient determination. Rationale for specific well locations is summarized in Table 1.

FROM BEAN SUBMITTER TO MS. CYNTHIA PARKOR  
OF WILLAMETTE VALLEY REGION DEQ. 1/22/87  
BY STAN STURGES OF CH. HILL. 7



Engineers  
Planners  
Economists  
Scientists

February 23, 1987

C20400.B0

Ms. Cynthia Parker  
Department of Environmental Quality  
Willamette Valley Region  
895 Summer St. NE  
Salem, Oregon 97310

Dear Cynthia:

Subject: Response to Comments on Groundwater Monitoring Plan Supplement

In follow-up to my February 9 telephone conversation with you and Bill Robertson/Water Resource Department, I am responding to your comments in a Question:Answer format:

- Q: Will the proposed EPA analytical methods (8015/8020) identify the naphtha constituents identified in the site investigation work?
- A: Groundwater samples will be analyzed for total organic carbon (TOC) by EPA Method 9060. The TOC concentration, with the target constituent (carbon) concentrations subtracted, will give a good semiquantitative indication of the presence of naphtha constituents.
- Q: Will the naphthalene, dibutyl phthalate, and butylbenzyl phthalate identified in borehole BH8 of the Phase II site investigation be analyzed?
- A: The listed contaminants are base neutral compounds identified in the paint layer found in the old paint pit (BH8). Well 3 will be sampled and analyzed for base neutrals and acid extractable contaminants by EPA Method 8250.
- Q: How will the wells be screened to monitor both light (S.G. <1) and heavy (S.G. >1) contaminants? Some of the naphtha constituents are heavier than water and may sink.

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Ms. Cythia Parker  
Page 2  
February 23, 1987  
C20500.B0

A: Scott Forrest has identified naphtha products commonly used in the paint industry (ref: February 12, 1987, letter from Scott Forrest). These products are lighter than water. However, as a contingency, our objective will be to monitor the full depth of the aquifer. We anticipate that this can be accomplished with a single screening interval starting at the water table and extending down to the confining layer at the bottom of the aquifer. We will not exceed a screening interval of 15 feet.

Please call me if you have further questions. Formal comments at the completion of your review should be addressed to Scott Forrest.

Sincerely,



Stan Sturges, Jr., P.E.  
Project Manager

SS:lw/PC1/015  
cc: Scott Forrest  
Dick Bach

STATE OF OREGONDEPARTMENT OF ENVIRONMENTAL QUALITYINTEROFFICE MEMORANDUM

DATE: March 13, 1989

TO: Jerry Turnbaugh, Engineer  
Water Quality Division

FROM: Sandra Anderson, Project Manager  
Environmental Cleanup Division

SUBJECT: Pollution Tax Credit for Forrest Paint

RECEIVED  
MAR 14 1989

Water Quality Division  
Dept. of Environmental Quality

At your request I am responding to a letter of February 28, 1989 from Forrest Paint appealing denial of Forrest Paint's Pollution Tax Credit application.

Soils and ground water at Forrest Paint have been contaminated with hazardous substances as a result of past disposal practices and spills from underground lines and tanks. A copy of the history of the site is attached. The site history indicates solvents were disposed in an unpermitted pond from 1973 to 1979. Spills from tanks and underground lines also occurred during this time.

To address remediation of the contamination, Forrest Paint is subject to a Stipulation and Consent Decree signed August 8, 1988 pursuant to ORS 466.540 through 466.590. The Decree requires a Remedial Investigation, Feasibility Study, Selection of Remedial Action by DEQ, and selection and implementation of remedial design. All these activities and terms are defined in ORS 466.540. All these activities, and those remedial investigation activities occurring prior to the Consent Decree, including installation of monitoring wells, were and will be carried out to acquire enough information about the release to design and implement a remedial action. None of these wells or activities were designed as preventive measures or early detection measures, which is what I understand is the intended meaning of OAR 340-16-025(2)(g) allowing a tax credit. These wells were installed to assess the extent of releases which occurred years before the wells were installed, and to collect information leading to a cleanup. This use is what I understand is the intended meaning of OAR 340-16-025(3)(g) which excludes the facility from a tax credit.

I suggest you obtain a legal interpretation of OAR 340-16-025 from the Department of Justice. I will gladly provide any additional technical or historical information at your request.

State of Oregon  
Department of Environmental Quality

Supplemental Information to Final Tax Credit  
Application Review Report for Forrest Paint

1. Additional Information:

At the April 14th EQC meeting, the Department was directed by the EQC to provide information on whether there was a difference of opinion or judgment between the Salem Region and Portland offices as to the question and conditions of eligibility. Mr. Forrest was requested to provide a cost breakdown of the 2" and 4" wells.

- a. Forrest Paint received preliminary approval for groundwater monitoring wells 2/2/87 by the Water Quality Division in Portland. The applicant believes that region staff stated the monitoring wells would be eligible for tax credit, depending on whether contaminants were found.

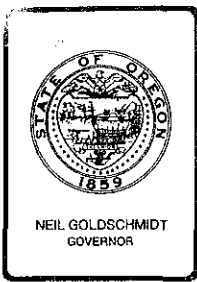
Salem region staff recall providing general tax credit information to Forrest Paint as they routinely provide to all business/industries contacts, and informing Mr. Forrest that monitoring wells at the time could be eligible. Staff could not recollect any conversation relative to the size of the wells, or eligibility being based on whether contamination was found. (Dave St.Louis telephone conversation 4/18/89).

- b. Forrest Paint applied for final tax credit certification, 4/8/88, for groundwater monitoring wells under the premise the wells were for detection purposes. Applicant believes credit should be approved under OAR 340-16-025 (2)(g) which authorizes tax credit for "Installation or construction of facilities which will be used to detect, deter, or prevent spills or unauthorized releases".

\* All of the wells installed by Forrest Paint were required by DEQ through its Hazardous Waste Program. None of the wells or activities required were designed as preventative or early detection measures. The wells were required to assess the extent of releases which occurred before the wells were installed. (Sandra Anderson, ECD, memo 3/13/89)

Monitoring wells may be eligible for tax credit if they are installed to detect, deter or prevent releases. The Pollution Control Tax Credit statute however, states that property for the cleanup of emergency spills or unauthorized releases as defined by the Commission, are not eligible. Consequently, the above rule provision does not apply to the cleanup of unauthorized releases.





# Department of Environmental Quality

811 S.W. SIXTH AVENUE, PORTLAND, OREGON 97204 PHONE: (503) 229-5696

February 2, 1987

Forrest Paint Company  
P.O. Box 2768  
Eugene, OR 97402

File Reference: WQ-Forrest Paint Co.  
Notice of Construction No. WQ-822/TC-2191

Department action as indicated below has been taken on your Notice of Intent to Construct and Request(s) for Construction Approval and/or Preliminary Certification for tax credit for the proposed facility.

<u>Project</u>	<u>Project Description</u>	<u>Plans &amp; Specifications Identification</u>
Forrest Paint Co.	5 Groundwater Monitoring Wells	NC WQ-822 Forrest Paint letter dated October 30, 1986

## PLANS AND SPECIFICATIONS AND CONSTRUCTION APPROVAL

- APPROVED - Subject to the conditions listed on page 2.

Plans and Specifications reviewed by: \_\_\_\_\_

## PRELIMINARY CERTIFICATION FOR TAX CREDIT OF A POLLUTION CONTROL FACILITY

- APPROVED - This preliminary certification makes the proposed facility eligible for consideration for tax credit but does not insure that any specific part or all of the pollution control facility will be issued a tax credit certificate.

Tax Credit review by: R. C. Dulay

If the Department can be of assistance, or if there are any questions, please contact this office at 229-5876.

Sincerely,

Renato C. Dulay  
Industrial Waste Specialist  
Industrial Waste Section  
Water Quality Division

RCD:H  
WH1613

cc: Management Services, DEQ  
Willamette Valley Region, DEQ

PLANS AND SPECIFICATIONS AND CONSTRUCTION APPROVAL CONDITIONS

1. The construction of the project shall be in strict conformance to approved plans and specifications identified above. No changes or deviations shall be made without prior written approval of the Department of Environmental Quality. (Air contaminant facilities are subject to confirmation by the Environmental Quality Commission.)
2. Granting approval does not relieve the owner of the obligation to obtain required local, state and other permits and to comply with the appropriate statutes, Administrative Rules, Standards, and if applicable, to demonstrate compliance.
3. Please fill out and return the enclosed Notice of Construction Completion form within 30 days upon completion of this approved project.

RCD:h  
WH1613

NORTHWEST ENVIRONMENTAL DEFENSE CENTER

REMARKS IN PUBLIC COMMENT PERIOD

ENVIRONMENTAL QUALITY COMMISSION MEETING: JUNE 2, 1989

In the staff report for Agenda Item K, the position taken by NEDC and others in public hearing is misrepresented. The staff report asserts in the Evaluation of Testimony and Response to Comments (Attachment C, page C-3, par. 3) that "None of the commenters specifically recommended repeal of the policies themselves, although such a recommendation could perhaps be inferred." To set the record straight, NEDC specifically recommended that the present management strategy be scrapped, and replaced with basin wide water quality planning and management. A fair and accurate summary of NEDC's testimony can be found in the Hearing Officer's report (Attachment B to the staff report).

Similar recommendations for repeal of these policies were submitted by the Cities of Portland and Salem. Testimony of the City of Portland "supports development of water quality driven basin plans from which discharge limits can be derived" and "recommends that the proposed rules be deferred until updated basin plans are developed." Testimony of the City of Salem "supports the development of sound water quality standards based on detailed analysis and basin modeling." "The City [Salem] does not support individual negotiations and individual studies along stream reaches. Such an approach will result in piecemeal decisions, with results based on who has the most money to investigate the issue, and who has the best consultant. The models that various consultants use may not complement each other." This testimony by the Cities of Portland and Salem is also accurately represented in the Hearing Officer's report in Attachment B to the staff report.

NEDC respectfully requests an opportunity during the Commission's consideration of Agenda Item K to represent NEDC's concerns and recommendation clearly and without the selective bias of the staff report. NEDC understands the Commission's reluctance at this meeting to hear additional testimony on items already publicly heard. Our concerns and request for Commission action on this Agenda Item are therefore summarized in writing and presented to you now.

COMMENTS OF NORTHWEST ENVIRONMENTAL DEFENSE CENTER  
ON PROPOSED CHANGES TO OAR 340-41-026 AND OAR 340-41-120  
BEFORE THE ENVIRONMENTAL QUALITY COMMISSION  
AGENDA ITEM K: JUNE 2, 1989

1. The proposed action before the Commission is bad public policy. It continues the past 15 years of ad hoc, source by source decision making as a substitute for a consistent, equitable and comprehensive basin wide water quality management strategy.

2. The proposed action is a throwback to an outdated policy that was based on the notion that the only things the Department needed to worry about were BOD, suspended solids, and point source discharge permits -- a policy that ignored toxics, nutrient loads and excessive algal growth, and nonpoint sources of pollution. The proposed action is a negation of the "New Approach" that has been directed by the Commission and advertised by the Department [see DEQ publication "WATER QUALITY: OREGON'S NEW APPROACH"].

3. Why are these rule modifications necessary? It is because the policy embodied in these rules is a fundamentally failed policy. It is this policy that NEDC sued in the U.S. District Court to have overturned. It is the result of this policy that can be so clearly seen in the Tualatin River basin. In this basin, treatment plant discharges were steadily permitted to increase until the treatment technology limits for BOD removal began to be breached. The Department then "reinterpreted" previously permitted BOD (total) limits to be applicable only to the CBOD (carbonaceous) fraction of the total BOD discharged. This ad hoc, treatment technology-based decision effectively increased the permitted BOD loadings to the Tualatin River by a factor of 3 to 5. During all these permit modifications focusing on BOD and suspended solids removal, increasing nutrient loadings have been ignored until even the dissolved oxygen standard is violated by excess ammonia nitrogen in the treatment plant effluents and phosphorus induced algal growth has become too thick to continue its attribution to some "natural" characteristic of a slow moving river.

4. The public costs of this failed policy in the Tualatin basin are documented in GAO's recent investigation of water quality management in Oregon [see "WATER POLLUTION: More EPA Action Needed to Improve the Quality of Heavily Polluted Waters," GAO/RCED-89-38, January 1989]. Since 1970, \$108 million have been invested in sewage treatment facilities of the Unified Sewerage Agency and, except for a brief period when storage water from Scoggins Dam (another \$63 million) provided additional dilution, the water quality trend has been steadily downhill.

5. The notion put forth that this policy has resulted somehow in the widespread existence of "unused waste assimilative capacity" across the state of Oregon that has now become available for environmentally and economically efficient "allocation" is a self-serving myth. Water quality conditions across the state of Oregon are detailed in the Department's most recent biennial 305b report [see "OREGON 1988 WATER QUALITY STATUS ASSESSMENT"]. (NEDC notes in passing that this excellent report is greatly improved in format and content over previous years' assessments. This report could be a sound basis for future water program planning and is evidence of superior technical staff work.) The data summary in Table 3.1 in this report documents that more than half (55%) of the total stream miles assessed in Oregon have demonstrably "severe" or "moderate" water quality problems. The remaining 45% of the assessed stream miles are categorically combined as either acceptable or of unknown water quality. Previous 305b assessments would indicate that as much of this new combined category is unknown as is acceptable. Previous 305b assessments, reviewed in NEDC and *Churchill v. EPA*, have documented a statewide water quality trend has been worsening every year since these assessments have been reported. In recent years, the Department has documented only about 10% of Oregon's 90,000 miles of rivers and streams that fully satisfy the state's water quality standards, or where "some degree of beneficial use impairment" does not exist. The challenge facing the Commission is not how to best allocate "unused waste assimilative capacity." It is how to most gracefully recover from the past 15 years of a failed water quality management policy!

6. The staff report for this proposal argues a need for interim rule changes because of a lack of time and resources to update all the Department's existing basin plans. This is a red herring argument. What is definitely not called for is a time consuming update of all these old basin plans. The value of these existing plans is demonstrated by the utter absence of their use in any known Departmental decision making activity. NEDC suspects that there are few members of the Department that even know where in the archives to find these old plans. To the contrary, what is needed is a new, streamlined and more timely basin wide planning and decision making process. What is needed is a process very like that described under "WHAT ARE THE STEPS?" on the last page of "WATER QUALITY: OREGON'S NEW APPROACH".

7. Instead, what is proposed here is a very high cost and inefficient band-aid program. This proposal will require a new water quality and economic impact assessment to be conducted by each applicant, consultants or staff every time an individual discharge permit needs modification. Who is going to resolve the predictable conflicts among all these different analyses? How, and by what kinds of after the fact, case by case, ad hoc criteria? This proposal will not reduce case loads, it will create case loads -- appeals to the Commission, contested case hearings, further litigation of the Clean Water Act.

8. In the final analysis, it is not so important whether the Commission or the Director is making the permitted load increase decisions. What is important is whether the Commission, Director, and the applicants will continue to be captives of an inadequate basis for decision making by any party -- of the continuing absence of any systematic basin wide water quality management strategy.

10. Cities, industries, and sewerage authorities need a firm level of long term planning stability. They need to have permitted wastewater discharge loadings that are allocated in the context of an identifiable, comprehensive basin wide strategy -- not on the basis of first in line, first with the loading increase, or of who has the most persuasive consultant at the time of individual permit renewals. They need assurance that significant investments in water quality protection made now will not still result in water quality degradation and more stringent treatment requirements later, as other permitted sources increase or turn out not to have been accounted for in an ad hoc, source by source load analysis and allocation process. They need a wasteload allocation process that equitably accounts for and includes all pollutant discharges and activities affecting water quality of the basin -- present and future, point source and nonpoint source.

11. For all the above reasons, NEDC respectfully requests that the Commission postpone any immediate action on the proposed rule modifications and instead direct the Department to develop and report to the Commission the following information:

A. An identification of all wastewater discharge permits, major and minor, for which load increases are projected to be requested during the next five (5) years;

B. A priority listing for development of river basin (or subbasin) water quality management plans and allocations of point and nonpoint source loadings, this listing to be based on the projected 5-year schedule of permitted load increase requests and the river basin water quality trends described in the Department's 305b assessments; and

C. A description and schedule for a streamlined, coordinated basin wide water quality planning and management, wasteload allocation, and permit modification process that provides for participation by all pollutant discharge sources and activities and the affected public, and that offers long term stability of water quality decision making criteria and guidelines. The Commission should expect that any process that is described will be similar to the process that is described for selected water quality limited streams in "WATER QUALITY: OREGON'S NEW APPROACH".

STATE OF OREGON

DEPARTMENT OF ENVIRONMENTAL QUALITY

INTEROFFICE MEMORANDUM

DATE: March 1, 1989

TO: Environmental Quality Commission  
FROM: Harold Sawyer  
SUBJECT: Future Commission Meetings

April 13-14, 1989 Meeting

Thursday, April 13, 1989 -- Rather than a normal work session, there will be an all day field trip to Arlington. The tentative schedule and arrangements are as follows:

7:30 a.m.	Leave Portland by Van for Arlington.
10:30 a.m.	Arrive at the site of the new Oregon Waste Systems Regional Landfill. Observe the location, construction, leachate collection system (liner), etc.
12:00 noon	Lunch. (Take Box Lunches along from Portland.)
1:00 p.m.	Arrive CSSI Hazardous Waste Disposal Site for tour of facilities.
3:00 p.m.	Leave CSSI
6:00 p.m.	Arrive Portland

It may also be possible to drive by problem sites at The Dalles either going or coming (Martin Marietta, Union Pacific)

Friday, April 14, 1989 -- Regular Meeting will be in the Portland Area. The meeting can either be held in the 4th floor conference room or at some other location in the area.

June 1-2, 1989 Meeting

This meeting is tentatively scheduled for the Southern Oregon (Medford) area. This was based on the expectation that the air quality SIP would be ready for adoption. The SIP will not be ready for adoption then -- fall seems more likely now. It may be more appropriate to have the meeting in the Portland Area.

July 13-14, 1989 Meeting

This meeting could logically be in the Corvallis area. The Pope & Talbot pulp mill expansion would be a major item for the agenda.

August and beyond -- Meeting dates have not been established yet.

<u>Date</u>	<u>Div</u>	<u>Type</u>	<u>Topic</u>
<u>April 13, 1989 Field Trip -- All Day</u>			
04-13-89	OD	Field Trip	Arlington: Landfill and Hazardous Waste Facility (Full Day Trip) Observe landfill under construction (liner installation) and Hazardous Waste Disposal Facilities.
<u>April 14, 1989 Regular Meeting</u>			
<u>Portland Area</u>			
04-14-89	EQC	Location	Portland Area
04-14-89	AQ	Hearing Auth.	Emission Exceedances: New Rule to Define where Exceedances due to Start-up, Shut-down, or Malfunction Situations Could be Allowed.
04-14-89	AQ	Hearing Auth.	SIP Control Strategies for PM10 in Medford, Grants Pass, and Klamath Falls Hearing Authorized 11/4/88 for Industrial portions of SIP
04-14-89	ECD	Hearing Auth.	Leaking Underground Storage Tanks -- matrix for evaluating cleanup levels in soils
04-14-89	WQ	Hearing Auth.	On-Site Sewage Disposal Rules: Modification to Revise Design Flow Basis for Sizing Systems
04-14-89	WQ	Hearing Auth.	Surety Bond Rules: Modification to Clarify Applicability to Mobile Home Parks
04-14-89	WQ	Hearing Auth.	TMDL's: for Bear Creek
04-14-89	WQ	Hearing Auth. ??	Sewage Treatment Facility Design Criteria: Modification to add criteria for Septic Tank Effluent Pump (STEP) Systems May be delayed. Jim VanDomelin is attending a seminar in late April. New information may cause delay.
04-14-89	HSW	Rule Adoption	Out of State Hazardous Waste: Permanent Rule
04-14-89	HSW	Rule Adoption	Waste Tire Economic Feasibility Rules
04-14-89	WQ	Approval	City of Corvallis: Approval of sewer plans, specifications, and schedule for Philomath Boulevard Phase II health hazard annexation Statute requires EQC to approve plans, specifications, and schedule for sewers to alleviate a health hazard in an area subject to mandatory annexation.
04-14-89	WQ	Approval	Stipulated Consent Agreement: Prineville
04-14-89	WQ	Approval	USA/Washington County: Program to meet TMDL
04-14-89	WQ/RO	Approval ??	Jeld-Wen, Inc; Klamath Falls: Increased Wastewater Discharge to Klamath Lake EQC approval is requested to allow increased discharge of wastewater (boiler blowdown) to Klamath Lake from a new boiler installation.
04-14-89	AQ	Work Session ??	Permit Limit Exceedances: Policy Discussion Standards and Conditions are generally written to apply to normal operating conditions -- and may be exceeded during startup, shutdown, malfunctions.
04-14-89	HSW	Work Session	Recycling Program Performance Standards & Update on Yard Debris Proposed discussion of Performance Standards for evaluating SB 405 Recycling Programs.



<u>Date</u>	<u>Div</u>	<u>Type</u>	<u>Topic</u>
04-14-89	OD	Work Session	Permit Fees: Background and Policy Discussion Background discussion preliminary to Commission consideration of proposed rule amendments to increase fees.
04-14-89	WQ	Work Session	Protection of Beneficial Uses of Water: Discussion of Antidegradation Policy Continuation of background discussion of water quality program and water quality standards.
June 1, 1989	Work Session		<u>Medford Area??</u>
06-01-89	EQC	Location	Medford
06-01-89	OD	Field Trip	Hardboard Plant (Medford Area)
06-01-89	OD	Field Trip	Plywood/Particleboard Plant -- Medford Area
June 2, 1989	Regular Meeting		<u>Medford Area??</u>
06-02-89	EQC	Location	Medford
06-02-89	AQ	Hearing Auth.	New Source Performance Standards (NSPS) and New National Emission Standards for Hazardous Air Pollutants (NESHAPS): Proposed Adoption of New Federal rules
06-02-89	HSW	Hearing Auth.	Special Waste: Proposed Rules Ash Disposal??
06-02-89	HSW	Hearing Auth.	Spill and Release Reportable Quantity Rules: Amendments to Maintain Consistency with Federal Rules
06-02-89	WQ	Hearing Auth.	Revolving Loan Fund: Draft Priority List
06-02-89	AQ	Rule Adoption	Emission Exceedances: New Rule to Define where Exceedances due to Start-up, Shut-down, or Malfunction Situations Could be Allowed.
06-02-89	AQ	Rule Adoption	Gasoline Volatility: Proposed Rule to Limit Gasoline Volatility During the 1989 Summer Ozone Season. Proposal is in accordance with the direction established at the January Work Session. Hearing Authorized at March Meeting.
06-02-89	AQ	Rule Adoption	Hardboard Plant Regulations: Modifications
06-02-89	AQ	Rule Adoption	Industrial PM10 Rules for Medford, Grants Pass, and Klamath Falls Hearing Auth. 11/4/88
06-02-89	AQ	Rule Adoption	Kraft Mill Regulations: Modifications to Correct Deficiencies, Add Opacity Standard for Recovery Boilers, Clarify Monitoring Requirements
06-02-89	HSW	Rule Adoption	Hazardous Waste Rules: General RCRA Program Rule Revisions including Adoption of New Federal Rules (by reference)
06-02-89	WQ	Rule Adoption	Construction Grant Rules: Modification to Implement Transition to Revolving Loan Fund This is the next step in implementing the transition strategy considered by the EQC in January. Hearing Authorized in March.
06-02-89	WQ	Rule Adoption	Increased Wastewater Discharges: Rule Modification

<u>Date</u>	<u>Div</u>	<u>Type</u>	<u>Topic</u>
06-02-89	WQ	Rule Adoption	TMDL's: for the Yamhill River Hearing Authorized at March Meeting.
06-02-89	WQ	Rule Adoption	Tualatin Basin: Interim Stormwater Control Rules Previous rulemaking requires the Department to propose such rules by March 1989. Hearing Authorized in March.
06-02-89	HSW	Approval	CSSI Permit: <del>Modifications</del> Commission approval of modifications to the permit for the Hazardous Waste Disposal Facility at Arlington.
06-02-89	WQ	Approval	Assessment Deferral Loan Program: Applications for funding during 1989-91 biennium.
06-02-89	WQ	Approval	City of Harrisburg: Authorization for increased discharge Approval of increased discharge in conjunction with sewage treatment plant modifications.
06-02-89	WQ	Approval	METRO Master Sewerage Plan (208 Plan): Recertification Periodic changes to the plan must be certified to EPA.
06-02-89	MSD	Information	State/EPA Agreement (SEA) Final EQC Review of proposed State/EPA Agreement priorities and expected accomplishments.

July 13, 1989 Work SessionCorvallis or Halsey Area

07-13-89	EQC	Location	Corvallis or Halsey Area
07-13-89	OD	Field Trip	Halsey Pulp Mill Area Field Trip to view Pope & Talbot Pulp Mill Area in relation to proposed expansion.
07-13-89	WQ	Work Session	Discussion of Significant New Waste Discharge to Columbia River: Proposed WTD Pulp Mill Background on proposed new WTD Pulp Mill to be located at the old Beaver Army Terminal Site.
07-13-89	WQ	Work Session	Disinfection Requirements Note Rule Proposal
07-13-89	WQ	Work Session	Halsey Pulp Mill Expansion

July 14, 1989 Regular MeetingCorvallis or Halsey Area

07-14-89	EQC	Location	Corvallis or Halsey Area
07-14-89	AQ	Hearing Auth.	Woodstove Certification Program: Proposed Modifications to Conform to New EPA Requirements
07-14-89	HSW	Hearing Auth.	Hazardous Waste Fee Rules: Revision of Compliance Fees for Generators and TSDF's Note: May need to move up so that billing could be accomplished by July if preliminary advisory committee recommendation for a December billing is not finally supported.

<u>Date</u>	<u>Div</u>	<u>Type</u>	<u>Topic</u>
07-14-89	HSW	Hearing Auth.	Solid Waste Fee Rules: Proposed Increase Rule Modifications to increase fees to account for inflation and changes in program emphasis.
07-14-89	WQ	Hearing Auth.	Disinfection Requirements: Proposed Rule Modification
07-14-89	WQ	Hearing Auth.	NPDES/WPCF Rules: Modification of Procedures and Fees Rule update and Fee increase to account for inflation and increased program costs.
07-14-89	WQ	Hearing Auth.	On-Site Sewage Disposal Program Rules: Modification of Fee Schedule Rule update and Fee increase to account for inflation and increased program costs.
07-14-89	AQ	Rule Adoption	SIP Control Strategies for PM10 in Medford, Grants Pass, and Klamath Falls Hearing Authorization presently scheduled 4/14/89. May be delayed, however.
07-14-89	ECD	Rule Adoption	Leaking Underground Storage Tanks -- matrix for evaluating cleanup levels in soils
07-14-89	WQ	Rule Adoption	On-Site Sewage Disposal Rules: Modification to Revise Design Flow Basis for Sizing Systems
07-14-89	WQ	Rule Adoption	Sewage Treatment Facility Design Criteria: Modification to add criteria for Septic Tank Effluent Pump (STEP) Systems
07-14-89	WQ	Rule Adoption	Surety Bond Rules: Modification to Clarify Applicability to Mobile Home Parks
07-14-89	WQ	Rule Adoption	TMDL's: for Bear Creek Hearing Authorization scheduled for April Meeting.
07-14-89	WQ	Approval	Pope & Talbot Pulp Mill Expansion: Request for Increased Winter Waste Loads EQC review and approval of proposed increase in winter time discharge loads to accommodate an increase in production capacity of the Pulp Mill at Halsey.
07-14-89	WQ	Review/Approval	Approval of Significant New Waste Discharge to Columbia River: Proposed WTD Pulp Mill  Approval of Proposed new discharge pursuant to policy that requires EQC approval of significant new waste discharges.